



**THE TOHONO O'ODHAM NATION OF ARIZONA  
TESTIMONY OF THE HONORABLE EDWARD D. MANUEL, CHAIRMAN**

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

**March 6, 2019**

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**Summary of Budget Requests**

- 1. Funding for Interior's implementation of SAWRSA/AWSA water rights settlement***
  - 2. Increased funding for BIA Law Enforcement and Border Security***
  - 3. Increased funding for BIA Roads Maintenance and Repair***
  - 4. Increased funding for IHS Facilities Construction and advanced appropriations for IHS***
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**Introduction & Background**

Good afternoon, Chairwoman McCollum, Ranking Member Joyce, and distinguished Members of the Subcommittee. My name is Edward Manuel and I am the Chairman of the Tohono O'odham Nation, a federally recognized tribe with more than 34,000 members located in southern Arizona. The Nation's Reservation is one of the largest in the United States, encompassing more than 2.8 million acres. The Nation also shares a 62-mile border with Mexico, the longest shared international border of any Indian tribe in the United States.

Thank you for the opportunity to testify about the Nation's federal funding priorities again this year. The Nation sincerely appreciates the Subcommittee's commitment to providing Indian Country with critically needed funding. My testimony focuses on the following funding priorities: funding to implement the Nation's 1982 water rights settlement, public safety needs including law enforcement and border security, and funding for road maintenance and health care.

**I. Funding to Implement the Nation's 1982 Water Rights Settlement**

For the past several years, I have raised in my testimony before this Committee the concerns of the Nation regarding the United States' failure to meet its obligations under the Southern Arizona Water Rights Settlement Act of 1982, P.L. 97-293 (SAWRSA), as amended by the Arizona Water Rights Settlement Act, P.L. 108-451 (AWSA). A crucial part of the congressional authorization to resolve this portion of the Nation's water claims is a commitment by the United States to provide replacement water to the Nation from the Central Arizona Project (CAP). A Cooperative Fund was formed to pay for the costs of the delivery of CAP water, which was reauthorized under AWSA. The Nation's concern is that, despite congressional authorization (including \$16 million under SAWRSA, an amount that was doubled under AWSA), the Department

has failed to fully fund the Cooperative Fund to sufficiently address CAP delivery costs on a long-term basis, and as a result, the Fund currently is being depleted at an unsustainable rate.

A long-term stable funding source for Indian water settlements is crucial not only to provide funding for those tribes seeking settlements, but also to provide funding to tribes like the Nation that are facing significant implementation challenges with respect to existing water settlements. SAWRSA settled the Nation's water rights claims to a little over 100,000 acres of land. Water rights claims associated with our remaining 2.6 million acres are presently the subject of negotiations with Interior. As the negotiations move forward, it will be critical for the Nation to identify a reliable source of funding. A long-term funding source will provide tribes fiscal certainty and ensure timely implementation of water settlements. The Nation recommends that such a funding source also include technical support for tribes to be used during the water settlement implementation process.

## **II. Law Enforcement and Border Security**

The FY 2019 omnibus appropriations package (House Joint Resolution 31) contained \$411.5 million for public safety and justice programs in Indian Country, an increase of \$6 million over the FY 2018 enacted level. The Nation appreciates this funding increase, but a far more significant increase is needed in FY 2020 to meet the public safety and justice needs in Indian Country.

*The Nation faces substantial and unique law enforcement and public safety challenges, in part because of its shared border with Mexico.* The location and size of the Nation's reservation present a multitude of law enforcement and border security issues. There are fourteen O'odham communities with approximately 2,000 members living in Mexico. The Tohono O'odham Police Department (TOPD) must police a huge geographic area, including many remote and isolated areas. TOPD also faces communication challenges with local and federal law enforcement due to limited interoperability on the reservation. Additionally, significant TOPD resources are dedicated to addressing border security needs -- more than a third of the limited TOPD budget is expended on border security. The Nation has positive and longstanding working relationships with Customs and Border Protection (CBP) and other federal law enforcement agencies. But despite our continued work with CBP and other agencies, federal funding for border security-related law enforcement on the Nation's reservation is extremely limited. The Nation spends in excess of \$3 million in tribal revenues annually to help meet the United States' border security responsibilities. For example, TOPD investigates on average more than 75 immigrant deaths per year, and provides funding for autopsies at a cost of \$2,600 per autopsy, along with supplies and detective investigative hours, with no assistance from CBP. The Nation also absorbs all costs to reclaim damage to its natural resources, including the removal of vehicles used and abandoned by smugglers and the control of wildland fires attributed to cross-border illegal activity.

*Current funding is completely inadequate to meet the public safety and justice needs in Indian Country.* A 2016 BIA report to Congress concluded that, to provide a minimum level of public safety services to all federally recognized tribes, Congress would need to appropriate \$1 billion for Law Enforcement Programs; \$222.8 million for existing Detention Centers, and \$1 billion for Tribal Courts.<sup>1</sup> Particularly in remote areas, tribal officers are the first and sometimes only responders to crimes on tribal lands, but due to lack of resources tribal police forces are severely understaffed throughout Indian country. The U.S. Commission on Civil Rights recently reported that tribes have "less

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<sup>1</sup> BIA Office of Justice Services, Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country (Aug. 16, 2016).

officers per capita than law enforcement agencies nationwide, leaving residents of Indian Country less safe and subject to higher rates of crime.”<sup>2</sup> In FY 2018, TOPD Officers, Detectives and Rangers drove over two and half million (2,554,166) miles and handled over 83,000 incidents. The current average mileage of the TOPD police fleet is over 250,000 miles per vehicle. While marijuana seizures have remained flat or declined, in FY 2018 the TOPD-led NATIVE HIDTA Task Force seized 834.388 kilograms of methamphetamine, a 2,763.98 percent increase over FY 2017, when 29.1339 kilograms were seized. Seizures of hundreds of counterfeit Oxycodone pills containing Fentanyl occur almost monthly. Alcohol-related crimes have decreased in FY 2018, but domestic violence crimes have increased by 22.97 percent and assault cases have risen by 40.09 percent. In addition, the capacity of the Nation’s correctional facility is grossly inadequate to meet our public safety needs, and the Nation consistently is forced to house detainees in correctional facilities out of state.

***The Nation supports NCAI’s funding recommendations:*** The Nation strongly supports the National Congress of American Indians’ (NCAI’s) request that Congress fully fund tribal law enforcement and detention centers within the next five years by incrementally increasing funding each year, starting with a \$200 million increase in FY 2020.<sup>3</sup>

### **III. Roads Funding**

The FY 2019 omnibus package allocated \$35.8 million for the BIA Road Maintenance program, a \$1.2 million increase from the FY 2018 enacted level. The BIA Road Maintenance Program is responsible for approximately 29,400 miles of roads in Indian Country, and it has been severely underfunded for years. NCAI reports that in FY 2018 the Road Maintenance Program received approximately \$30 million in funding while the deferred maintenance backlog rose dramatically to \$498 million.<sup>4</sup> For most tribal governments, federal funding is the primary or only funding source to repair and maintain reservation road systems. Funding for the BIA Road Maintenance Program and the increasing maintenance backlog is absolutely critical.

*The Nation has hundreds of miles of damaged and poorly maintained roads.* The Nation has the sixth highest total BIA road mileage in Indian country with 734.8 miles of BIA roads on its reservation. Maintaining the Reservation’s vast road system is a substantial challenge. As a result of the seriously inadequate BIA funding for road repair and maintenance, many of the Nation’s roads are in very poor condition. Our roads are riddled with sink holes, pot holes, broken and cracked pavement, and washed-out bridges, which when left unaddressed, make the roads dangerous for our members. Throughout the monsoon season, flooding frequently completely washes out the roads and makes them impassable, stranding our members, including children on school buses, preventing access by emergency vehicles and isolating communities. A number of our members have been killed by flooding while traveling on these roads.

*Transfer of funds from Customs and Border Protection to repair the Nation’s roads.* As we reported previously to the Subcommittee, the Nation worked with CBP and BIA for years to reach an agreement to fund the repair of roads on the reservation that had been damaged by CBP vehicles. BIA did not have sufficient funding and CBP took the position that it could not spend its funds to repair BIA roads because BIA receives specific appropriations for that purpose. The FY 2018

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<sup>2</sup> U.S. Commission on Civil Rights, *Continuing Federal Funding Shortfall for Native Americans* (p. 32).

<sup>3</sup> National Congress of American Indians (2019). *Fiscal Year 2020 Indian Country Budget Request: Winds of Change, Protecting our Nations and People in the Future* at 33.

<sup>4</sup> NCAI FY 2020 Budget Request at 126.

omnibus package included language allowing CBP to transfer funds to BIA to fix roads damaged by CBP vehicles on Indian reservations. Similar language allowing the transfer of CBP funds was included in the FY 2019 funding package for Interior. We would like to again express our gratitude to the Committee for addressing this funding issue, which is critical to the safety of the Nation's and federal law enforcement officers, as well as the Nation's members.

***The Nation supports NCAI's funding recommendations:*** The Nation strongly supports NCAI's recommendation that Congress provide \$50 million for the BIA Road Maintenance Program in FY 2020, to start making a dent in the ever-increasing BIA maintenance backlog.<sup>5</sup> ***Additionally, the Nation requests that language allowing CBP to transfer funds to BIA for reservation road repair again be included in the FY 2020 Interior appropriations bill.*** These funds are absolutely necessary to repair roads that are heavily used and damaged by CBP vehicles on the reservation.

#### IV. Health Care

The FY 2019 omnibus package allocated \$243.5 million for Indian Health Care Facilities Construction, an amount level with FY 2018 enacted funding. This is clearly inadequate. On average, IHS facilities are over 40 years old, almost four times as old as most U.S. hospitals, which have an average age of 10.6 years.<sup>6</sup> A 40-year old facility is approximately 26 percent more expensive to maintain than a 10 year old facility.<sup>7</sup> Outdated facilities are a direct and substantial threat to adequate patient care and must be updated as soon as possible. According to a 2016 Health and Human Services Inspector General report, administrators at over half of IHS hospitals surveyed said that inadequate facilities directly hampered their ability to provide quality care and ensure compliance with the Medicare Hospital Conditions of Participation.<sup>8</sup>

*The Tobono O'odham Nation Hospital in Sells, Arizona is over fifty years old; one of the oldest IHS facilities.* Due to its age and lack of updates, the Nation's Sells Hospital can handle only minor medical issues and is completely inadequate to serve the Nation's needs. The Sells Replacement Hospital has been on the IHS facilities construction list for more than twenty years. In FY 2018, the Nation finally received a small portion of the funding (\$750,000) needed to begin work on a replacement hospital, for which we are grateful, but it will be years before construction of a new hospital will be complete. The continued failure to provide adequate funding for IHS facilities construction is a breach of the federal trust responsibility. Congress must do better in providing funding for these urgently needed Indian health care facilities.

***We ask that the Committee provide substantial increases to the IHS Facilities construction budget.*** We support the NCAI FY 2020 budget request for a \$219.9 million increase in IHS facilities construction funding for FY 2020.<sup>9</sup> ***We also ask that the Committee provide advanced appropriations for IHS in FY 2020.*** This will prevent the uncertainty in funding levels that results from the passage of Continuing Resolutions, and ensure that funding shortfalls and reductions in critical health services do not occur in the event of future government shutdowns -- and protect tribal members who rely on these services.

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<sup>5</sup> NCAI FY 2020 Budget Request at 128.

<sup>6</sup> NCAI FY 2020 Budget Request at 67.

<sup>7</sup> NCAI FY 2020 Budget Request at 67.

<sup>8</sup> Indian Health Service Hospitals: Longstanding Challenges Warrant Focused Attention to Support Quality Care. Department of Health and Human Services, Office of the Inspector General. October 2016. OEI-06-14-00011.

<sup>9</sup> NCAI FY 2020 Budget Request at 67.