

**Testimony of Chairman Timothy Nuvangyaoma
Hopi Tribe
Before the U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, & Related Agencies
March 7, 2019**

Summary of Budget Requests:

- I. Hopi Arsenic Mitigation Program – Provide funding to address arsenic contamination of drinking water
- II. Hopi Detention Center – Ensure timely completion of the permanent detention center
- III. Hopi Law Enforcement Funding – Provide sufficient funding for law enforcement services

Introduction & Background

Good morning Chairwoman McCollum, Ranking Member Joyce, and Honorable Members of the Subcommittee on Interior, Environment, and Related Agencies. My name is Timothy Nuvangyaoma and I have the honor of serving as Chairman of the Hopi Tribe.

The Hopi Reservation, located in the northeast corner of Arizona, is approximately 2.5 million square miles. The Tribe has over 14,000 enrolled tribal citizens, over half of whom reside in the Reservation's 12 villages. Unfortunately, the residents of the Reservation suffer from a 60% unemployment rate due, in part, to the lack of economic development opportunities caused by the remote and landlocked nature of the Reservation.

Thank you for the opportunity to testify regarding the Tribe's funding priorities within the Subcommittee's jurisdiction. While the Tribe has numerous funding priorities, my testimony today will focus on the needs related to the Hopi Arsenic Mitigation Project, the Hopi Detention Center, and law enforcement funding.

I. Hopi Arsenic Mitigation Program (HAMP)

The Hopi Tribe has been suffering with arsenic contamination in its water supply since the 1960s when the BIA first installed its drinking water system. The water for eight of the Tribe's villages is contaminated with high levels of naturally occurring arsenic. These levels exceed the Environmental Protection Agency's (EPA) safe drinking water standards by as much as three times the allowable contaminants.

The EPA has ranked the contamination on the Hopi Reservation as one of its highest priorities and longest running arsenic drinking water violations. The EPA has entered into an administrative compliance order with the Tribe under which the Tribe is liable for a fine of \$52,000 per day if the arsenic contamination is not resolved. Unfortunately, the Tribe does not have the funds to address this federally-created public health crisis on its own. The nature of the arsenic means that it is incredibly difficult to treat the water and make it safe to drink. The most viable solution is to construct new wells in non-contaminated aquifers and transport that water to the Hopi villages.

The only other potential solution is to finally complete a Little Colorado River water settlement that includes a pipeline from Lake Powell to deliver non-contaminated water to the Reservation.

The Hopi Tribe created the Hopi Arsenic Mitigation Project (HAMP) several years ago to attempt to find a solution to the arsenic contamination. The HAMP drilled and tested new well fields and has identified water that is suitable for human consumption. The HAMP has also worked to identify a path for the regional pipeline to proceed so that clean water can be delivered to the villages.

The HAMP proposal has two phases. The first phase of HAMP only delivers water to Hopi villages and it will not provide water to secondary sites such as BIA schools, health care facilities, employee housing (the Tribe's remoteness makes it necessary to provide housing to skilled employees such as physicians, teachers, etc), and judicial facilities. HAMP has a plan in place for phase two that would increase the system capacity of the initial phase through the construction of water main extensions and pressure upgrades to increase the range of pumped water.

The Tribe needs a total of \$20 million to complete a seamless and arsenic free regional water system on the Reservation. The \$20 million price tag is for two phases: \$5 million for phase one and \$15 million for phase two. The initial phase of the project would cost approximately \$20 million and is designed to serve residential village customers based on health risk to residential public water systems. This phase has been partially funded by the EPA and Indian Health Services (\$14 million) and the Tribe (\$1 million). However, an additional \$5 million is needed to complete the first phase. Further, phase two of the HAMP regional water system is estimated to cost an additional \$15 million.

The Tribe has already drilled the necessary wells and completed the project engineering, so the HAMP is considered shovel-ready. The only thing missing is the necessary funding. I urge the Subcommittee to continue to address clean drinking water funding for Indian Country.

II. Hopi Detention Center (HDC)

In December 2016, the Hopi Tribe declared a state of emergency (Hopi Tribe Executive Order #03-2016) following the abrupt condemnation and closure of the Hopi Detention Center ("HDC") by the Bureau of Indian Affairs ("BIA"). The closure left the Tribe with no place to process or hold suspects, let alone to incarcerate prisoners. The police department was forced to transport suspects and prisoners over 80 miles to the closest detention facility. This required valuable public safety resources to be redeployed for transportation purposes, leaving the Tribe, its citizens, and reservation residents vulnerable.

In response, the BIA identified and approved funds for temporary modulars for detention and law enforcement in January 2017. The BIA also worked, along with this Subcommittee, to identify and approve funding for the construction of a permanent detention facility. While the Tribe greatly appreciates these efforts, the implementation of these projects has encountered numerous issues.

Regarding the temporary units, the BIA initially stated that the temporary portable office space and holding center would be ready for use in July 2018 – a full year and a half after the condemnation of the Tribe's detention center. However, these temporary detention units were not complete in July 2018 and the BIA informed the Tribe they would be operational by September

2018. The BIA finally issued a temporary certificate of occupancy for the modulars in October 2018, but deficiencies were subsequently found, delaying occupancy of the units. Most recently, in February 2019, the temporary detention units failed to meet minimum post construction standards. The units are now only able to house law enforcement administration and hold inmates for no longer than four hours.

As for the status of the permanent detention facility, in July 2017, the Department of the Interior (“Department”) sent letters to leaders of the Interior Appropriations Subcommittee, which noted that the HDC situation “has resulted in a negative impact on public safety at Hopi.” Further, the Department notified this Subcommittee of its proposal to reprogram \$5,000,000 within Indian Affairs’ Public Safety & Justice Construction Appropriation to address the emergency situation by allowing for the construction of a detention facility to replace the condemned building. “Once initiated, project completion could be accomplished within seven to nine months,” the letter stated.

The Hopi Tribe thanks this Subcommittee for approving the reprogram request but regrets to inform you that the Tribe is still awaiting confirmation that the BIA has awarded the contract for construction of the permanent detention facility. The Tribe needs the BIA to expedite this process and enter into a contract for the construction of the permanent detention facility with the funds that this Subcommittee approved over a year and a half ago.

III. Law Enforcement Funding

The Hopi Tribe has relied on the BIA to provide law enforcement on the Hopi Reservation for many years. The BIA is supposed to staff the Reservation with 46 law enforcement officers, but they have never met that threshold. In recent years the BIA has moved officers away from Hopi to other areas reservations. The Tribe has witnessed a decline in the BIA’s response to public safety concerns as the number of BIA law enforcement personnel covering the Reservation has dwindled and with it the quality of the services provided has suffered. For years the Tribe has tried to address this shortfall by deploying its Hopi Rangers away from their mission on the range to supplement the BIA law enforcement’s insufficient resources.

This decline in services was exacerbated during the aforementioned BIA condemnation and closure the Hopi Detention Center. The BIA soon began directing its law enforcement personnel to conduct cite and release for many infractions that would have otherwise resulted in an arrest. The Tribal Council was not informed about this new directive, one that led to an increase in crimes as criminals realized there were no consequences for many actions. The situation culminated in May 2017 when the BIA sent the Tribe a letter informing it that it had run out of funds to contract for prison space. Included in the letter was a commutation memorandum for Hopi prosecutors to request that all prison sentences be commuted. The Tribe was forced to appeal directly to the Secretary of the Interior for assistance, which ultimately led the BIA to rescind the letter and locate funds to deal with the situation.

Throughout the entire ordeal, the Tribe and Tribal Council felt helpless as the BIA dictated the terms and conditions of Hopi’s public safety without appropriate consultation or input from the Tribe. This entire predicament led the Tribal Council to decide that the Tribe needed to be in charge of its own law enforcement and responsible for protecting Hopi tribal members and Reservation residents. The Tribal Council passed a resolution directing the Tribe to enter into

negotiations with the BIA to assume law enforcement on the Reservation pursuant to the Indian Self-Determination and Education Assistance Act (638 contract).

The Tribe submitted its proposed budget of roughly \$3.5 million along with a one-time cost of \$1.9 million in August 2018. The majority of the Tribe's budget proposal was to cover salaries. The Tribe proposed funding the following positions: 28 law enforcement officers, 8 dispatchers, and 3 civilian employees. These 39 employees would be responsible for protecting an area larger than the State of Delaware. The Tribe's research showed that this was the minimum level of staffing required to safely and effectively patrol the Reservation.

Unfortunately, the BIA declined the Tribe's proposal in December 2018 because it did not agree with the funding level. The BIA totally declined the one-time cost, claiming that it was technically a contract support cost. Further, the BIA partially declined the \$3.5 million because it said that it was too much, as it had already spent roughly \$1.8 million on law enforcement efforts on the Hopi Reservation in 2018.

The Hopi Tribe disagrees with the BIA's justification on the true cost of providing public safety on the Reservation. The BIA has chronically underfunded and understaffed law enforcement activities on the Reservation and that is why its 2018 budget figure is less than what the Tribe requested. The Hopi reservation receives over 10,000 calls for service each year: in 2015 there were 10,943 calls for service; in 2016 there were 13,046 calls for services; and in 2017 there were 13,021 calls for service. It is impossible to respond to these calls within the BIA's proposed budget parameters.

The true cost of providing law enforcement on the Reservation is the \$3.5 million. The BIA is setting the Hopi Tribe up for failure if it does not provide sufficient funding. The Hopi Tribe urges Congress to prioritize public safety funding in Indian Country and to conduct oversight on how the BIA is currently deploying public safety resources.

I appreciate the opportunity to testify to the Subcommittee today. I am available to answer any questions that the Subcommittee may have regarding my testimony.