

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

WRITTEN TESTIMONY OF THE NEZ PERCE TRIBE

MARCH 7, 2019

Honorable Chairwoman and members of the Subcommittee, my name is Shannon F. Wheeler and I serve as Chairman of the Nez Perce Tribal Executive Committee. Thank you for the opportunity to provide this testimony on behalf of the Nez Perce Tribe (Tribe) as the Committee evaluates and prioritizes FY 2020 appropriations, in relation to the needs of tribal nations, for the Indian Health Service (IHS), Bureau of Indian Affairs (BIA), Environmental Protection Agency (EPA), U.S. Forest Service (FS), U.S. Fish and Wildlife Service (FWS), and the Bureau of Land Management (BLM). On behalf of the Nimiipuu people, I want to acknowledge and thank this Subcommittee for your efforts, on a longstanding, bipartisan basis, to understand the needs of Indian Country and advocate for increased appropriations to the many programs in your jurisdiction that benefit our citizens, our tribal governments, and all members of our communities. We are deeply grateful that the many funding increases to tribal programs across the final FY 2019 Consolidated Appropriations Act will build on increases Congress provided in FY 2017 and in FY 2018.

Like any government, the Tribe performs a wide array of work and provides a multitude of services to its tribal membership as well as the community at large. The Tribe has a health clinic; a tribal police force; a social services department; and a comprehensive natural resources program that does work related to forestry, wildlife management, land services and land management, habitat restoration, air quality and smoke management, water quality and sewer service. The Tribe also operates one of the largest fisheries departments of any tribe in the nation working on the recovery of listed species under the Endangered Species Act (ESA). Each of these programs is necessary and vital for the Tribe as a sovereign nation that preserves and protects the Treaty rights of the Nez Perce People and provides day-to-day governmental services to our members and surrounding communities.

The Tribe has long been a proponent of self-determination for tribes and believes our primary obligation is to protect the Treaty-reserved rights of the Tribe and our members. All of the Tribe's work is guided by this principle. The Tribe works extensively with many federal agencies and proper funding for those agencies and their work with, for, and through tribes is of vital importance. To accomplish this work, the U.S. must affirm its trust responsibility to Indian tribes by properly funding programs. The Tribe supports the recent report of the U.S. Commission on Civil Rights, *Broken Promises*, as well as the National Congress of American Indians' publication of Indian Country's FY 2020 Budget request, *Winds of Change*.

Bureau of Indian Affairs

The Tribe appreciates the \$3.08 billion in overall funding for the BIA and Bureau of Indian Education in FY 2019 and requests that this \$17.5 million increase be maintained in FY 2020. The Tribe also supports the indefinite appropriation for contract support costs and believes that at least

the \$247 million appropriated in FY 2019 should be provided in FY 2020. These costs should also be reclassified from discretionary to mandatory.

In relation to the BIA Public Safety and Justice (PS&J) account, the Tribe advocates for maintaining at least the \$411.5 million in funding for law enforcement that was enacted for that account in FY 2019. The Nez Perce Reservation spans 1,200 square miles, covering five counties, and has a mixture of tribal and non-tribal residents. The Tribe provides a full-service law and justice program. The Tribe has a fully trained and staffed police force, a fully staffed tribal court, a prosecutor, a public defender, and other personnel that perform related administrative functions. The Tribe received \$953,214 in base funding from PS&J in FY 2017. Currently, the Tribe contributes \$1,974,530 annually to cover the shortfall in BIA funding for the Tribe's law enforcement, \$527,984 for judicial services/probation, \$390,832 for prosecutorial services, \$256,636 for public defender services, and \$300,000 for prisoner boarding. This supplemental funding of nearly \$3.5 million is derived from tribal taxes on goods and fuel and tribal gaming revenues that would otherwise be used for tribal governmental services. Funding for these programs needs to be maintained and ultimately increased to account for shortfalls in funding the Tribe has to absorb in order to continue the operation of these important services on the Reservation.

The Tribe requests total funding of \$35 million be provided for scholarships and adult education and special higher education scholarships and that funding for the Johnson O'Malley program be substantially increased from the \$14.9 million provided in FY 2019 to the level of \$42 million that NCAI recommends. Johnson O'Malley program funding has remained static for many years resulting in the decrease of per student funding. The Tribe also supports \$2.5 million, if not an increase, in funding for tribal education departments along with increases for tribal colleges and universities that support institutions like Northwest Indian College which operates a satellite campus on the Nez Perce Reservation.

The Tribe also relies on the BIA for funding for our work related to endangered species and protection of the Tribe's Treaty resources, including Chinook and steelhead salmon. The funding is used to supplement research efforts of the Tribe relative to other sensitive species. The Tribe recommends a \$1 million increase for the BIA Endangered Species Program. This account provides tribes with technical and financial assistance to protect endangered species on trust lands. Also, the Tribe recommends an increase of \$2.8 million for BIA Natural Resource Tribal Priority Allocations which will help increase tribal land and management capabilities.

In addition, the funding provided under the BIA Rights Protection Implementation account is critical to support the exercise of treaty-reserved, off-reservation hunting and fishing for tribes. The Tribe supports, at a minimum, funding of \$41.3million, the FY 2019 enacted level. BIA single-line dollars provide the foundation for core program administration and treaty rights protection activities, such as harvest monitoring. These efforts are central to the Tribe's fisheries management responsibilities as established by the Nez Perce Treaties of 1855 and 1863 and further delineated in court decisions regarding implementation of hunting and fishing Treaty rights. It is important to understand that this funding is used for job creation.

The Tribe also supports \$15.3 million in funding for the BIA Fish, Wildlife and Parks. The Tribe, through our fisheries programs, has invested a significant amount of personnel and resources into the restoration of salmon. The states of Oregon, Washington, and Idaho, as well as sports fisheries, directly benefit from this work. These programs have been successful with funding under the Tribal Management and Development Program which is critical for the Tribe's management of fish and wildlife. We recommend funding in the amount of \$17 million for the Tribal Management and Development Program, a \$5.3 million increase from FY 2019.

Indian Health Service

The Tribe operates Nimiipuu Health, a healthcare clinic on the Nez Perce Reservation in Lapwai, Idaho, and its satellite facility located 65 miles away in Kamiah, Idaho. Nimiipuu Health provides services to approximately 4,000 patients each year. Annually, this computes to 40,000 medical provider visits which does not include pharmacy or laboratory visits. Our expenditure total of federal funds in FY 2018 was \$16,403,788.97, an increase of \$1.1 million from that in FY 2017. Purchased/Referred Care (P/RC) costs for outpatient services in FY 2018 totaled \$4,340,402.73, an increase of \$600,000 from FY 2017.

For FY 2020, the Tribe recommends, at a minimum, continuing the \$5.8 billion in funding enacted for IHS in FY 2019. This funding amount will allow Nez Perce and other tribes to pay costs, maintain current services, and allows programs and facilities to keep up with medical and non-medical inflation and population growth. The Tribe appreciates the \$2.1 million increase in funding for P/RC provided in FY 2019 and recommends that this \$964.8 million allocation be preserved or increased by up to \$20 million to continue to meet the P/RC spending needs of tribal health facilities.

The Tribe supports \$822.2 million for contract support costs in FY 2020 and the inclusion of bill language to classify this appropriation as indefinite so that, if needed, additional funds may be provided as they were in FY 2018 and FY 2019. The Tribe appreciates that Congress chose to fully fund contract support costs in FY 2019 – as it should, per any agreement. In addition, the Tribe supports reclassifying contract support costs for the BIA and IHS as mandatory and not discretionary. However, this change in funding should not be accomplished or be off-set by reducing other funding for these agencies that would adversely affect services or programs. This funding should not be reduced by excessive set-asides for administration. Finally, the Tribe recommends permanent, mandatory funding of the Special Diabetes Program at no less than \$150 million per fiscal year.

U.S. Fish and Wildlife Service and U.S. Forest Service and Bureau of Land Management

The Tribe relies heavily on funding sources within the FWS and the FS. First, the operations of Kooskia National Fish Hatchery are funded by FWS. The Tribe manages the hatchery pursuant to the terms of the Snake River Water Rights Act of 2004 (Act). FWS requires full funding for the operations of this important facility to ensure the U.S. meets its obligations under the Act. Second, the FWS-administered State and Tribal Wildlife Grants program is an important and cost-effective expenditure for the government and is one of the few sources of funds tribes can tap into for

wildlife research. Since 2005, we have received five such grants funding work on diverse issues such as gray wolf monitoring, bighorn sheep research, rare plant conservation, and Condor habitat research. Continued funding for the State and Tribal Wildlife Grant program will allow recipient tribes to build capacity and maintain involvement in key conservation issues. The Tribe strongly urges this Subcommittee to increase funding for these competitive grants to \$66 million and increase the tribal share from \$4.2 million to \$6.5 million.

The Nez Perce Reservation and its usual and accustomed areas are rich in natural resources and encompass eleven national forests. The Tribe works closely with each forest's administration to properly manage its resources on behalf of the Tribe. These range from protecting and properly managing the products of the forest to providing habitat for the vast wildlife in each one such as elk, deer, bighorn sheep and wolves. Increased funding is necessary so that the FS can meet these trust obligations and continue to work with tribes on a government-to-government basis without being hampered by lack of funding to fill positions. With regard to management of bighorn sheep, the Tribe would like to note that the Subcommittee has included report language to both the BLM and FS over the last several years that encourages research related to disease transmission between domestic sheep and bighorn sheep. The Tribe encourages this type of research mandate be restricted to laboratory settings and not be allowed to occur in the field where impact and harm would be more difficult to control. The bighorn sheep populations within the Tribe's aboriginal territories are too fragile and too important to be put at risk.

Environmental Protection Agency

The Tribe works closely with EPA on a large number of programs that are essential to the health and safety of the 18,000 tribal and non-tribal citizens residing within the Nez Perce Reservation and that also protect the Treaty-reserved resources of the Tribe that the U.S. has a trust obligation to preserve. These programs include: the Clean Water Act 106 Program; the Clean Water Act 319 Nonpoint Source (NPS) Pollution Prevention Program; the Indian General Assistance Program; the Tribal Brownfields Response Program; the Underground Storage Tank Program; the Delegation of Nez Perce Federal Implementation Plan; the Clean Air Act 103 Grant-Nez Perce Tribe Air Quality Project; and the EPA Region 10 Pesticide Circuit Rider Program. The Tribe currently implements over \$1.5 million in programmatic funding under these programs. The Tribe recommends the Indian General Assistance Program be increased from \$65.5 million to \$75 million, the tribal allocation under the Clean Water Act 106 program be increased by 20 percent, \$13 million for Tribal Air Quality Management, \$87 million for the Brownfields Program and \$13 million be provided in lieu of the percent cap on tribal funding for NPS pollutant control.

The Tribe requests the Subcommittee fund the Columbia River Basin Restoration Program, authorized under the Water Infrastructure Improvements for the Nation Act of 2016, at no less than the \$1 million provided to EPA in FY 2019 but recommends that number be substantially increased.

As you can see, the Tribe does a tremendous amount of work in a variety of areas. It is important that the U.S. continue to fund this work and uphold and honor its trust obligations to tribes. Thank you for the opportunity to testify today.