

**Shoalwater Bay Indian Tribe**  
Charlene Nelson, Tribal Chairwoman



Testimony submitted to the House Appropriations Subcommittees on Interior,  
Environment and Related Agencies

February 3, 2020

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The requests of the Shoalwater Bay Indian Tribe (Tribe) for the FY 2021 Interior, Environment, and Related Agencies budget are as follows:

- Support appropriation of funds through the Tribe’s self-government agreement with the Bureau of Indian Affairs to address additional planning and implementation efforts for a needed wetland mitigation bank to protect against coastal erosion and tsunami effect. We appreciate your FY 2020 report language requiring the BIA to assist tribal coastal tribes such as ours to assist with mitigation and relocation efforts.
- Fully fund Section 105(l) Clinic Leases as authorized through the Indian Self-Determination Act through “such sums as necessary” bill language as is done with Contract Support Costs
- Fund IHS via advance appropriations in parity with the Veterans health programs
- Support long-term mandatory funding of the Special Diabetes Program for Indians (SDPI)

***Background***

Thank you for inviting the Shoalwater Bay Indian Tribe to provide testimony today. My name is Charlene Nelson, and I am the Chairwoman of the Shoalwater Bay Indian Tribe which is located 2,800 miles west by northwest of where we are meeting today and we are on the beautiful north shore of Willapa Bay, facing out to the Pacific Ocean. As are most Coastal tribes we are stewards of the great ocean. As the Chairwoman of the Tribe, and in my former career as an educator and commercial fisherman, I have learned firsthand that vibrant and successful Indian communities are not possible without first attending to human health of the community members and also ensuring the health of the environment. I appreciate that this Committee is also responsible for those same priorities, and it is in that shared spirit of community responsibility that I speak to you today.

## *Wetland Mitigation – Climate change*

Thank you for having a panel dealing with climate change and for including me on this panel. Our first priority today is to ask you to ensure that BIA planning and implementation funds are available for our critical and ongoing need to develop a wetland mitigation bank to facilitate needed construction to protect our Tribe against the imminent danger of coastal erosion and tsunami inundation. With limited exception, our entire reservation and adjacent tribally owned property is within a mapped tsunami zone where the shoreline is actively eroding. Contractors worked 24 hours a day over the 2019 Christmas holiday to repair an eroding shoreline, performing dangerous work in order to protect the reservation from additional ocean erosion and inundation. The Tribe concludes that new facilities must be developed further inland to ensure Tribal member safety and the Tribe's continued economic viability and cultural survival. The lands where the development will occur are heavily encumbered by wetlands. With this significant new development, substantial wetland mitigation will be required to permit the roads and new facilities.

To address the need for mitigation, the Tribe acquired a large, privately-diked property adjacent to its reservation. This property has been historically used by tribal members for thousands of years. The Tribe evaluated restoration feasibility and examined multiple alternative design approaches before ultimately proposing the Shoalwater Bay Mitigation Bank to state and federal permitting agencies in December 2017. The Bank will breach the dike and restore the estuary, and associated wetlands.

There is a significant backlog for agencies approving mitigation bank projects. As a result, the wetland permitting agencies have yet to review the Tribe's proposal, since it was submitted two years ago. In the interim, the Tribe has maintained contact with permitting staff, while working on infrastructure protection project components in coordination with the Department of Transportation and county planning officials. After waiting for two years from the proposal submittal in 2017, the Tribe needs action on this vital public safety issue. In December 2019, the Tribe hosted the Corps of Engineers and Washington State Department of Ecology leadership on a site visit and meeting to express our urgent need for the mitigation Bank to proceed.

In 2019, the Tribe carved out a portion of the mitigation bank project area to advance as a separate mitigation project. This separate bank will address the immediate wetland mitigation need for the development of a tsunami evacuation tower and other tribal projects. Advancing this mitigation project separately from the larger Bank adds costs to the Tribe and it will not meet the full mitigation need necessary to relocate all of its facilities outside the tsunami zone and away from the eroding shoreline. While our request today is for planning and implementation funds for the Tribe from the BIA for the interim and larger mitigation Bank, which will facilitate the construction of critical life-saving projects such as the evacuation road, tsunami tower and other immediate emergency and hazard mitigation efforts the Tribe is undertaking.

We appreciate the FY 2020 the House Committee Report language (H. Rept. 116- 100) as did the House FY 2019 report focusing on coastal communities:

The Committee supports Indian Affairs' efforts to address the resiliency needs of tribal communities by working to address threats to public safety, natural resources, and sacred sites. The Committee is particularly concerned about

coastal tribal communities, Alaska Native Villages, and Alaska Native Corporations that face severe challenges to their long-term resilience due to the impacts of climate change. Consistent with the Federal Government's treaty and trust obligations, the Committee directs Indian Affairs to work with at-risk tribes and Alaska Native Villages to identify and expedite the necessary resources to support mitigation and relocation efforts. The Committee also directs Indian Affairs to develop a report outlining the unmet infrastructure needs of tribal communities and Alaska Native Villages in the process of relocating to higher ground as a direct result of the impacts of climate change on their existing lands and to transmit this report to the Committee within 180 days of enactment of this Act.

### ***Section 105(l) Clinic Leases***

We are gratified that IHS has recently been fully funding Section 105(l) leases for tribal health clinics, its responsibility as confirmed by the 2016 federal court decision in *Maniilaq v. Burwell* which held that section 105(l) of the Indian Self-Determination and Education Act (ISDEAA) provides an entitlement to full compensation for leases of tribal facilities used to carry out ISDEAA agreements. The IHS has had to reprogram approximately \$70 million in FY 2019 funding to meet these required costs and likely the same will be true for FY 2020. Reprogramming for these legally required costs is not sustainable. We support treating 105(l) lease financial obligations as being mandatory funding or being funded by an indefinite appropriation as "such sums as may be necessary" as are Contract Support Costs.

We thank Congress for providing \$125 million for 105(l) leases in FY 2020. As a long-term solution, we suggest as did the FY 2020 appropriations committee reports, that consideration be given to whether the funding for these leases be funded as a separate line item in the same manner as Contract Support Costs at "such sums as may be necessary"

### ***IHS Advance Appropriations***

We thank Chairman McCollum for introducing, and Ranking Member David Joyce co-sponsoring, legislation to provide advance appropriations for IHS and programs in the BIA and BIE. And thank you also for the FY 2020 Committee report language directing the IHS to determine what changes in existing processes would be needed to change IHS to an advance appropriations process and report to the Committee regarding the same.

Under advance appropriations we would know a year in advance what the budget would be and importantly, would not be constrained by the start and stop level funding of Continuing Resolutions, each of which requires the same processing and manpower for each partial payment as one full apportionment. When IHS funding is subject to a Continuing Resolution, we receive only a portion of annual funding at a time, making it particularly difficult to implement long-range planning and staffing. Even if CRs had not become the norm, having advance notice of funding levels would aid greatly in our health programs planning, recruitment, retention, and leveraging of funds. Finally, we note again that the Veterans Administration health accounts have been receiving advance appropriations since FY 2010. Both the VA and the IHS provide direct medical care and both are the result of federal policies. The IHS budget should be afforded the same status as the VA.

***Special Diabetes Program for Indians (SDPI)***

As of this date the Special Diabetes Program for Indians (SDPI), along with several other mandatory funded health programs, are authorized only through May 22, 2020. The mandatory funding for SDPI is not part of the IHS budget but the funding is distributed through that agency. SDPI has resulted in documented good results throughout Indian Country as the National Indian Health Board and others have testified. We ask that this Committee support an increase to \$200 million annually and that the authorization be made permanent or at least for five years. The tribal SDPI programs need the security of funding to allow us to recruit and retain personnel to deliver badly-needed services to more of our members.

***Conclusion***

Thank you for your consideration of the concerns and requests of the Shoalwater Bay Indian Tribe. I am happy to provide any other additional information as requested by the Subcommittee.