

Testimony of Cheryl Andrews-Maltais
Chairwoman of the Wampanoag Tribe of Gay Head Aquinnah
Before the House Appropriations Committee
Subcommittee on Interior, Environment and Related Agencies
Regarding FY 2021 Funding Needs Within the BIA, IHS, and EPA Accounts
February 12, 2020

Good afternoon Chairwoman McCollum, Ranking Member Joyce, and Members of the Subcommittee. My name is Cheryl Andrews-Maltais. I am the Chairwoman of the Wampanoag Tribe of Gay Head Aquinnah, located on the Island of Martha's Vineyard, seven miles off the coast of Massachusetts. I am serving in my fourth term as Chairwoman. I also serve on the Board of Directors of the United South and Eastern Tribes (USET), the Eastern Region Delegate on the BIA Tribal Self-Governance Advisory Committee, the IHS Office of Self-Governance Advisory Committee, the Tribal-Interior Budget Council (TIBC), and the Health and Human Services Secretary's Tribal Advisory Committee (HHS-STAC).

Thank you for inviting me to present testimony today concerning the Tribe's needs for FY 2021 funded through appropriations by this Subcommittee for the Bureau of Indian Affairs (BIA), Indian Health Service (IHS), EPA and related agencies. The Wampanoag Tribe of Gay Head Aquinnah is part of the Great Wampanoag Tribal Nation, known as *The People of the First Light*. We have occupied our lands since time immemorial. Our ancestors were signatories to the 1621 Treaty of Peace between the Wampanoag Nation and King James I of England. Like other New England Tribes who were among the first Indian Nations to encounter European settlers and explorers, we endured centuries of warfare, disease, loss of our aboriginal lands, discrimination and forced assimilation. However, like all indigenous peoples of the United States, we maintained our cultural and religious practices, language, heritage, and Tribal government.

In the 1980s, like many other New England Tribes, we brought lawsuits to assert our aboriginal ownership rights to the lands of our ancestors on Martha's Vineyard, which were taken from us in violation of the Trade and Intercourse Act of 1790. On April 10, 1987 the Tribe regained our Federal Acknowledgement as a sovereign Indian Nation through the administrative procedures administered by the Department of the Interior, and became eligible for the services and benefits of the United States enacted for the benefit of Indian Tribes and their citizens. It was only after almost a decade of efforts to restore our Federal acknowledgement that State and Federal officials came to the negotiating table to work out a settlement. Subsequently, on August 18, 1987, with enactment of the Massachusetts Indian Land Claims Settlement Act, Pub. L. 100-95, with our Federal relationship acknowledged, we eventually placed just under 600 acres of land in trust for the benefit of our members. Thus began our restoration.

While a portion of our approximate 1,300 Tribal Member citizen reside on Martha's Vineyard, about three-quarters of our People reside on the mainland in southern New England, southeastern Massachusetts, and in other states. According to recent HUD data, Tribal families in our service area earn between 30% - 80% of Median Family Income, live in overcrowded housing, have housing needs in excess of 50% of family income, or experience housing shortage. On the island, affordable housing is virtually non-existent, especially during the tourist season, and too many of our Tribal Members "couch surf" in search of temporary housing. During the off-season, jobs are scarce and too many community members struggle, and are often unable to make ends

meet. Our Tribal and Federal dollars are stretched ever so thin, as we work to develop our reservation trust lands to serve our community's needs. As you can imagine, the cost to build on the island of Martha's Vineyard is exorbitant. Over the last 33 years, we have made some progress, however the demands and cost of living within our homelands continue to grow.

Today, we operate BIA- and IHS-funded programs under Tribal Self-Governance Compacts to serve our members and we receive funds from EPA for critical environmental work to monitor the waters, air, and lands that are the life-blood of our Tribal citizens. We have 13 departments, including, Education, Health, Natural Resources, Social Services, After School and Summer Children's Program, Tribal Historic Preservation Office, Women's Center, Administration, Finance, and Planning. We operate a housing authority and operate our own waste water treatment plant. We have operated under Self-Governance for nearly two decades. I set out our recommendations for FY 2021 appropriation needs below.

1. BIA and IHS Must Improve the Timely Transfer of Federal Appropriations to Tribes Under the Indian Self-Determination Act

In FY19, our Tribe was hit hard by the 35-day government shutdown. We came very close to suspending services and laying off staff. And the Continuing Resolutions while more helpful than nothing, simply do not allow for the consistent financial support necessary to operate our Tribal Government programs and services. We don't have any economic development. Our Tribe depends exclusively on the timely transfer of annual appropriations from the Offices of Self-Governance at BIA and IHS to ensure that we can perform the programs, services, functions and activities we assume from those agencies in an efficient manner and meet the payroll requirements for our dedicated staff. We have not received any discernable funding increases since we entered into Self Governance almost two decades ago.

The funding that the United States owes to all Tribes, including us, is a fiduciary responsibility and an obligation to us, not an entitlement. However, we are funded as a discretionary aspect of the federal budget. All too often, we receive our Federal program funds late, and in small installments rather than in a lump sum as agreed to under our Self Governance Compact and which we negotiate annually with BIA and IHS in our funding agreement. The Tribe fully supports the measures introduced by Members of the House and Senate to protect Tribal programs by requiring advance appropriations to Tribes (e.g., H.R. 1128). An additional burden placed upon the Tribe is trying to manage a Tribal Government on competitive grant basis. Tribes do not have a tax base from which to draw revenue to support the government functions. Funding should be consistent and included in the Tribe's base funding in order to properly execute the programs and functions performed on behalf of the United States.

I also ask that the House Appropriations Committee include language in the report accompanying the FY2021 appropriation measure to direct the BIA and IHS to explain to Congressional appropriators the reasons that prevent those offices from complying with statutory mandate of Pub. L. 93-638, which requires the Secretaries to award funds to Tribes "not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department" (see, e.g., 25 U.S.C. § 5388(a)), and to identify remedies to overcome these challenges, together with any required appropriations language to implement such changes. As the first of only two Self-Governance Tribes in the BIA Eastern Region, we routinely receive our

annual recurring base program funds late and rarely in the lump sum as required. The same is also true for payment by BIA and IHS of our Contract Support Cost (CSC) funds. We ask that the Committee also direct the agencies to promptly improve the methods and procedures by which they calculate and pay CSC funds to Tribes, including an explanation of the distribution formula employed. The Tribes should not have to incur the cost of filing a Contract Disputes Act (CDA) claim against the BIA and IHS in order to get the agencies to award funds owed us.

The agencies must comply with the ISDEAA. If special authorization is needed or changes are required to the finance systems they operate, the agencies should consult with Tribes and implement agreed upon changes. No Tribe should have to wait on Federal appropriations for months because an agency budget office cannot or will not improve its systems and procedures.

2. Continue to Increase Funding for BIA Public Safety Services (Criminal Investigations/police services)

We thank the Subcommittee for rejecting the Administration's proposed cuts in the FY 2020 appropriation. We appreciate Congress approving \$22.8 million in additional funding in FY 2020 within the BIA's Public Safety and Justice account. Funding for this account will increase to \$434 million, an increase of 5.5%, including an additional \$1 million to solve Missing and Murdered Indigenous Women cold cases, and an additional \$1 million for background checks to speed the hiring of more law enforcement officers. This covers such programs as criminal investigations and public services, corrections, the Indian police academy, Tribal courts, VAWA, and the BIA's law enforcement special initiative.

The Wampanoag Tribe of Gay Head Aquinnah receives direct program funds from BIA for Criminal Investigations/Police Service. Under our authority, we use these funds to help finance the salaries of three cross-trained Tribal personnel, a Natural Resources Director and two Tribal rangers trained at the BIA Police Academy and all are deputized as Special Officers of the Town. Our law enforcement budget is 6/100th of one percent (0.0006) of the BIA's FY 2020 Criminal Investigations. We simply need more funds. Our Rangers must patrol our nearly 600-acre reservation. During tourist season on the Vineyard, they must work every day to keep visitors out of sensitive environmental and cultural areas and keep tourists from coming into our Housing Authority to "look for the Indians." During hunting season, they must ensure the safety of our Tribal Members and non-members who cross our lands. Our Rangers are cross trained as EMTs, and First Responders, receive training to administer Naloxone for opioid overdose, serve eviction notices, no trespass and restraining orders, they coordinate with each Town and the County's law enforcement personnel in all aspects of public safety and disaster preparedness.

We need to triple our staff and request that the Subcommittee continue to recognize the shortage of trained public safety officers in Indian country. This remains a priority for the Tribe. The opioid crisis, the safety of our Tribal citizens, especially women and children – who are among the most vulnerable for domestic violence and neglect – requires targeted appropriations by Congress. Despite the helpful increases the Subcommittee has supported for public safety in Indian country, we have not seen an appreciable increase in funding. Small Tribes like Aquinnah need additional public safety officers to keep our Tribal community safe.

3. Support Increases for the Indian Child Welfare Act (ICWA) Program

Within our BIA Self-Governance compact, we operate the ICWA Program serving our Tribe. We receive less than \$8,000 which is wholly inadequate for the program needs of our Tribe. The FY 2019 budget for BIA's ICWA Program was \$19.1 million. While we understand that Congress appropriated \$1 million in the current FY 2020 budget to implement grants for off-reservation programs for Indian child and family services (25 U.S.C. § 1932), it is unclear to us whether the FY 2020 ICWA budget was otherwise reduced to \$14.3 million, a reduction of nearly 25% from the FY 2019 enacted level.

So long as Tribes must deal with the ills of poverty, underemployment, overcrowding, substance and alcohol use, misuse and abuse, we must address the associated challenges of child abuse and neglect. Please recognize the importance of recurring funding for the Indian Child Welfare Act Program and the critical importance to Tribes to retain the professional staff who monitor and protect the most vulnerable Tribal children. We recommend increases to the FY 2019 enacted level for the ICWA Program in the FY 2021 budget.

4. Support Increases to the IHS's Purchased/Referred Care Program and Dental Health Program

The Tribe appreciates the support of the Subcommittee for continued increases to the Indian Health Service (IHS) budget for FY 2020, adding \$212 million above the FY 2019 enacted level for IHS Services accounts. The Tribe operates a small out-patient ambulatory clinic on the island. We barely have sufficient funds to have a full-time Nurse Practitioner, however our clinic physician only comes monthly to examine patients and prescribe medications. For that reason, the Tribe is dependent on our IHS Purchased/Referred Care (P/RC) funds to allow our Tribal members to receive adequate health services off-reservation and off-island. We request that the Subcommittee increase funds for this critical program to ensure the long-term health of our Tribal citizens and other eligible Tribal beneficiaries of IHS-funded services.

In FY 2020, Congress provided \$965 million for P/RC, the same funding level as provided in FY 2019. We ask that the Subcommittee consider the needs of small Tribes that operate out-patient clinics and which must rely on P/RC funds to ensure that our members receive the healthcare services they require as you develop the FY 2021 appropriation.

We also appreciate Congress appropriating \$210.5 million for Dental Health in the FY 2020 budget, an increase of nearly \$6 million above the FY 2019 enacted level. Our Tribe is witnessing a deterioration in our members' oral health as they age, at almost an epidemic level. Too many of our Tribal members went without routine dental exams as children and young adults. As a result, they are experiencing oral health problems as older adults. We ask the Subcommittee to target dental health needs in the FY 2021 IHS budget so that we may better ensure the long-term health of our members. The Surgeon General has identified the issue as one of his priorities because good oral health promotes longevity and a better quality of life as we age. Thank you for the opportunity to present testimony regarding our Tribe's funding needs.