



THE TOHONO O'ODHAM NATION OF ARIZONA
TESTIMONY OF THE HONORABLE NED NORRIS, JR., CHAIRMAN
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

March 9, 2023

Summary of Funding Requests

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

Thank you Chairman Simpson, Ranking Member Pingree, and distinguished Members of the Subcommittee for this opportunity to provide testimony on behalf of the Tohono O'odham Nation. The Nation is a federally recognized tribe with more than 34,000 members. Our Reservation is located in southern Arizona and is one of the largest in the United States. Our Reservation shares a 62-mile border with Mexico, the second-longest shared international border of any Indian tribe in the United States. The Nation sincerely appreciates the Subcommittee's dedication to providing Indian Country with critically needed funding. We ask that you prioritize funding for road maintenance, the Nation's 1982 water rights settlement, public safety (including law enforcement and border security), health care, and education.

I. Roads Funding

The Nation, like most of Indian Country, faces overwhelming road maintenance and safety issues. The FY 2023 Omnibus Appropriations explanatory statement acknowledges that BIA's Road and Repair program "faces significant backlogs with some roads in need of repair for decades."¹ In Fiscal Year (FY) 2018, the backlog totaled \$498 million and it continues to rise.² In

¹ Division G – Department of the Interior Environment and Related Agencies Appropriations Act, 2023 at S8652, available at <https://www.congress.gov/117/crec/2022/12/20/168/198/CREC-2022-12-20-pt2-PgS8553-2.pdf>.

² National Congress of American Indians (NCAI) FY 2022 Budget Request at 131-132, available at https://www.ncai.org/resources/ncai-publications/NCAI_IndianCountry_FY2022_BudgetRequest.pdf.

BIA's FY 2023 budget justification, only 12 percent of BIA roads were estimated to be in acceptable condition.³

The Nation's Reservation includes hundreds of miles of severely damaged roads. Our Reservation includes 734.8 miles of BIA roads. Due to the chronic underfunding of the BIA Road Maintenance Program, many of our roads have sink holes, pot holes, broken and cracked pavement, and washed-out bridges, making them dangerous for our members and for tribal and federal law enforcement and agency personnel. During monsoon season, flooding completely washes out roads, stranding our members, including children on school buses, preventing access for emergency vehicles and isolating communities. Tribal members have been killed by flooding while traveling on these roads. The Nation desperately needs additional funding to address these life-threatening road conditions. We appreciate the additional funding for BIA road maintenance in the Bipartisan Infrastructure Law, but the BIA Road Maintenance Program received only \$39.1 million in the FY 2023 Omnibus – this is grossly inadequate. *The Nation requests that Congress provide at least \$75 million for the BIA Road Maintenance Program in FY 2024 to begin to address the huge BIA maintenance backlog.*

Transfer of funds from Customs and Border Protection (CBP) to BIA to repair the Nation's roads. Many Reservation roads that are used and damaged by CBP also need repair. Since FY 2018, the DHS appropriations legislation has authorized CBP to transfer funding to BIA for repair of roads damaged by CBP. Some of that funding has been used to repair roads on the Nation's Reservation that were severely damaged by CBP use, although it is a small number. The Bipartisan Infrastructure Law includes a permanent authorization for CBP to transfer these funds, but *the Nation respectfully requests that appropriations for this purpose, as well as the necessary companion language allowing BIA to accept funding from CBP, again be included in the FY 2024 Interior appropriations bill.*

The Nation wishes to underscore how much it appreciates the Subcommittee's leadership and continued support on this critical safety issue.

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

The Nation was one of the first tribes in the United States to enter into a federally-approved water rights settlement, the Southern Arizona Water Rights Settlement Act, Pub. L. 97-293 (1982) (SAWRSA), as amended, Pub. L. 108-451 (2004). SAWRSA settled the Nation's water rights claims relating to a little over 100,000 acres – less than 1/20th of our Reservation. Water rights claims associated with most of our remaining ±2.6 million acres of land are the subject of ongoing settlement negotiations. Unfortunately, resistance to adequate funding for Indian water rights settlements has stymied past attempts at fully implementing existing settlements like SAWRSA, which suffers from chronic underfunding. The Indian Water Rights Settlement Completion Fund, enacted last fall as part of the Bipartisan Infrastructure Law, provides a vital source of funds for SAWRSA, and the Nation is grateful for Interior's efforts to address a portion of SAWRSA's underfunding through the Completion Fund. But this is only one part of the solution. Given the substantial funding backlogs already faced by the Reclamation Water Settlement Fund, it also is critical that Interior and other federal agencies implement water settlements by using discretionary funding through the annual appropriation process, and that Congress provide these agencies with adequate direction in this regard. Without this commitment from Congress and relevant federal agencies, water settlement funding and implementation will remain incomplete and inadequate.

³ BIA FY 2023 Budget Justifications and Performance Information at IA-TG-7, available at <https://www.doi.gov/sites/doi.gov/files/fy2023-bia-greenbook.pdf>.

III. Law Enforcement and Border Security

A substantial increase in funding for FY 2024 is desperately needed to begin to address the public safety and law enforcement needs facing Indian Country.

The Nation faces major, unique law enforcement and public safety challenges due to its 62-mile shared border with Mexico and the large size of the Nation's reservation (2.8 million acres). The Tohono O'odham Police Department (TOPD) must police a huge geographic area with limited resources, including remote and isolated areas and land along the border. TOPD also has difficulty communicating effectively with other law enforcement because of a lack of interoperability throughout the reservation. More than a third of the total TOPD budget each year is expended on border security. The Nation has a positive, longstanding working relationship with CBP and other federal law enforcement agencies, but there is extremely limited federal support for border security-related law enforcement.

The Nation spends more than \$3 million of its own tribal revenues annually to help meet the United States' border security responsibilities. TOPD responded to over 106,950 incidents in FY 2022 including drug seizures, illegal immigration, border and other criminal activity. In 2022, the Nation conducted 83 migrant death investigations, with a total cost of \$323,700. Since 2003, TOPD has spent nearly \$6 million dollars on over 1,500 migrant death investigations and recoveries. The Nation has also seen a dramatic increase in migrant smuggling where non-tribal suspects are recruited to transport migrants through the Reservation, driving at speeds in excess of 100 miles per hour, refusing to stop for law enforcement, and endangering the Nation's members.

Existing federal funding is wholly inadequate to meet the public safety and justice needs of Indian Country. In FY 2022, TOPD Officers drove nearly 3 million miles and handled over 106,950 incidents. The TOPD-led NATIVE HIDTA Task Force seized 1060.3 kilograms of methamphetamine (nearly twice that seized in 2021), almost 3.1 kilograms of heroin, 2.45 kilograms of cocaine, and 885,344 counterfeit pills containing fentanyl (a 902 percent increase from 2021). The Nation also has witnessed a steady rise in opioid-related deaths, and a dramatic increase in violent crime, including a 200% increase in homicides and a 64.5% increase in assaults.

In many isolated areas on the Nation's reservation, tribal law enforcement are the first and only responders to criminal activity on tribal lands. Yet these critical tribal police face a severe lack of resources, and are seriously understaffed. The Nation's police department is housed in a converted 1950's-era BIA jail and is not equipped to handle current law enforcement responsibilities. The Nation's detention center is totally inadequate to meet our public safety needs, and the Nation must house detainees in facilities out of state. Federal funds for correctional facilities are extremely limited, and it takes years to advance on the BIA list to receive these funds.

The Nation strongly urges the Subcommittee to take immediate action to fully fund tribal law enforcement and detention centers. The Nation requests that Congress fully fund tribal law enforcement and detention centers within the next five years by incrementally increasing funding each year, beginning with a \$200 million increase in FY 2024.

IV. Health Care

Indian Health Service (IHS) facilities infrastructure continues to fail across Indian Country. The current reported backlog of essential maintenance, alteration, and repair is \$767 million.⁴ The

⁴ National Indian Health Board Budget Formulation Workgroup's Recommendations on the Indian Health Service Fiscal Year 2024 Budget (NIHB FY 2024 Budget Request) at 114, available at

chronic underfunding of IHS facilities contributes to the poor quality of care and high rates of preventable deaths that occur throughout Indian Country.

The Nation's 50-year old Hospital in Sells, Arizona is one of the oldest IHS facilities. Due to its age and lack of updated equipment and facilities, the Nation's Sells Hospital can only address minor medical issues and is entirely inadequate to serve the healthcare needs of the Nation's members. The Sells Replacement Hospital has been on the IHS facilities construction priority list *for nearly thirty years, since 1993.* Although the Nation, beginning in FY 2018, has begun to receive funding for the Sells Replacement Hospital, construction has not yet begun, and it will be several years before construction of the new facility will be complete (assuming it continues to receive the funding that is projected in the IHS budget). Congress must do better in providing funding for Indian health care facilities, which are urgently needed to provide higher quality health care to tribal members.

The Phoenix Indian Medical Center (PIMC), where many of the Nation's members obtain healthcare services, closed its labor and delivery services in August 2020. This closure continues to impact our members' ability to receive adequate healthcare. In a December 9, 2020 letter responding to an inquiry from the House Natural Resources Subcommittee on Indigenous Peoples, IHS cited the aging infrastructure of the hospital and inadequate labor and delivery equipment as the primary reasons these services at PIMC had to be discontinued. The letter also noted that \$28.5 million of necessary updates were not currently funded. In February 2021, the Nation sent a letter to IHS requesting more information about when PIMC labor and delivery services would be reinstated. That letter has never been answered, and those services continue to be unavailable at PIMC. The PIMC has been on the IHS facilities construction priority list awaiting replacement funding since 2003. The Nation's Sells Hospital and PIMC are just two of many examples across Indian Country of aging, deficient IHS facilities. *We request that the Subcommittee provide \$3.22 billion for IHS facilities construction in FY 2024,⁵ to immediately begin addressing these failing IHS facilities that are putting the health and welfare of Native Americans at risk.*

V. Education

Substantially more funding is needed to ensure BIE school facilities provide an adequate learning environment for students. Three out of the five BIE-funded schools on the Nation's reservation are listed in poor condition in BIE's latest facilities report from January 2021.⁶ Eighty-six BIE-funded schools on this list are awaiting repairs and ultimate replacement. In 2018, the Nation's Santa Rosa Ranch School was forced to close due to significant safety issues (no working fire suppression system; electrical, heating and cooling issues; asbestos in two buildings; structural cracks; and extensive leaks and water damage). In 2019 BIE reopened the school with five temporary modular units, which are still in use. The poor conditions at so many BIE schools put Native students at a significant and unfair educational disadvantage, and in many cases create unsafe learning and working environments for students and staff. *The Nation requests that the Subcommittee provide \$1 billion for BIE facility construction to address the poor conditions at these schools.*

<https://www.nihb.org/docs/09072022/FY%202024%20Tribal%20Budget%20Formulation%20Workgroup%20Recommendations.pdf>.

⁵ See NIHIB FY 2024 Budget Request at 13.

⁶ Indian Affairs Office of Facilities, Property and Safety Management, FY 2020 Fourth Quarter Reporting Period - BIE School Locations Facility Condition Index - 'Poor' Condition, January 2021, available at https://www.bia.gov/sites/bia.gov/files/assets/as-ia/ofpsm/dfmc/FY_2020_Q4_FCI_Report_Poor_FIRB_01_28_21_Sec508.pdf.