

Ali Meders-Knight – Opening Witness Statement

Good morning, Members of the committee. My name is Ali Meders-Knight. I am a basketweaver, mother of five, and Master Traditional Ecological Practitioner of the Mechoopda Indian Tribe in Chico, California. I was born in Falls Church Virginia, not too far from the Capital where you are sitting now, but I am Indigenous to California – the number 1 economy in the United States, and the 5th largest economy in the world.

Northern California Tribes rarely get credit for their role in this very successful economy. But every bit of value from the soil, water, timber, and real estate in California's beautiful landscapes is built on the backs of thousands of years of our ancestral presence on this land.

Tribal tending and management set up California's ecosystems for resilience – from volcanoes, floods, droughts, and of course, wildfires. For over 40 million years, since the Sierra Nevada mountains were created, California's ecosystems have been defined by extreme disruptions. There will always be fire on this landscape. We can have a lot of fire, or a little fire, but we can never have "no fire." Over thousands of years, Tribes learned how to live in this place. We learned to use fire and harvesting to cultivate resilience in plants, because the plants are what make us resilient. We've learned there is good fire and good smoke. Good fire and good smoke bring water in the form of rain, sequester carbon in the soil, and make healthy plants that have been adapted to good fire for thousands of years.

In just 180 years, the colonial destruction of California's forests, wetlands, and watersheds has re-plumbed these complex ecological cycles to create a monopoly on water, land, and plants as a commodity. Out of 33 million acres of forests in California, 19 million are federal forests. Over 70% of wildfires burn on federal lands, costing billions of dollars in damages and federal disaster aid.

In 2018, the Camp Fire that destroyed Paradise, CA started in Jarbo Gap, named after Walter Jarboe, one of the most notorious Indian killers in the state. During the Gold Rush, he was paid to kill over 300 Natives in this area. And now, his name bears the legacy of 86 people killed in the Camp Fire. This irony is an example of the ignorance of these legacies. Most people do not know the history of this name, and they don't know the ecosystem and the conditions that led to this destruction.

Apocalyptic wildfires are spreading in California forests, and every single fire burns in unceded Tribal territory. The BIA "oversight" fraud of California's timber trusts is a documented and well-acknowledged theft of Native land, that gave timber industries power to reshape the ecosystem. Maintaining and reproducing vast amounts of timber lands in California forests, and in Tribal territories, not only compromises the Federal trust responsibility for the provision of care for the safety and well-being of Tribal citizens, but it is now compromising the safety and well-being of everyone who lives here.

But as major disasters take place in Tribal territories and in Federal trust lands, we now have an opportunity, nation to nation, to invest in the long-term land management projects that not only positively impact the environment, but also create a positive economic impact on all Americans. To spell it out simply: Tribal Nations are sovereign governments and federally recognized entities able to create workforce and employment in all Federal lands. When Tribes have the ability to restore the lands around them through long term stewardship contracting, the results are outstanding.

The scope of work matters in forest management. Indigenous methods and approaches to tending forest ecosystems have objectives to cultivate biodiversity, based on long-term, “place based” observation and known outcomes. Biodiversity is the presence of many species of plants, insects, animals and birds that work together in an ecosystem. From a climate change perspective, biodiversity is an insurance policy for resilience – if one species is impacted, other species can step up to keep the system going. But contracting today in so-called ‘forestry’ does not allow for biodiversity. Most contracts employ a limited number of species, and require high density of trees per acre that will recreate the same problems of wildfire in one or two decades. Tribes must have self-determination in the planning and scoping of reforestation projects.

Our California Oak woodlands are unique to the world. Adapted to fire, floods and droughts, their contributions to a healthy forest are beyond measure. They hold an economy of food, seed and carbon that make their value superior to any average timber tree in a monocrop forest. In Northern California, nearly 98% of all native oak woodlands have been removed. But we are still here: Tribally led workforces, certified and trained to restore forest health. We can be a huge opening for rural economies that suffer from lack of employment and education debt. Restoring federal forests with fire-adapted native ecosystems of trees, flowers, and shrubs, tended by Tribally-led workforces with excellent skill sets, including Tribal knowledge, is a nation-building endeavor that can rightfully and effectively address climate change solutions.

*Ali Meders-Knight – Written Testimony & Policy Recommendations*

What happens in the aftermath of wildfires, and its implications for wildfire disaster recovery and future resilience in terms of Tribal rights, expertise, opportunities, and roadblocks, is something I'd like to bring forward to the Oversight Committee at this time.

Currently, disaster recovery in California, and nationwide, is dominated by large corporate contractors (such as TetraTech and Phillips Jordan) as well as smaller subcontractors working under the aegis of dominant industry institutions in the area. In California, this means large utilities like PG&E, logging conglomerates such as Sierra Pacific Industries, and government programs such as the CCC which utilizes cheap prison labor to carry out fuels reduction and other land management operations. In a competitive bid process, these operators have the privilege and advantage of large corporate infrastructures, established relationships with agencies, and economies of scale that allow them to consistently underbid and outcompete smaller, local Tribal organizations and locally based land management crews that would otherwise be able to provide higher-quality recovery and restoration work and living wages to Tribal members and other local workers in wildfire-affected communities. This situation has had adverse effects both economically on affected local communities, and on overall ecological outcomes and vulnerability to future wildfires.

*Post-Disaster Contracting and Lack of Economic Recovery Opportunities*

In 2019, after the Camp Fire, several Butte County Tribes and supporting organizations formed a coalition called Intertribal Stewardship Workforce Initiative (ISWI) and submitted a letter to FEMA and CalOES (the main administrative bodies that oversee disaster recovery contracts) outlining the federal legal authorities by which Tribes are entitled to a portion, or “carve-out,” of post-disaster funding and recovery contracts. Combined, the four signatory Tribes had the manpower, equipment, and expertise to carry out up to 20% of the hazard tree removal and restoration operations in the Camp Fire burn scar (for which at least \$450 million of FEMA funding was allocated). Our ask, for an initial consultation meeting between these Tribes and FEMA/CalOES to discuss contracting possibilities for locally-based Tribal crews, was ultimately rejected by leadership at both agencies, and we were told to submit bids through the normal competitive bid process (which, as outlined above, puts ‘business-as-usual’ contractors at a prohibitive advantage).

Three years after the deadliest and most destructive wildfire disaster in California history, our landscape is nowhere near a state of recovery and remains acutely vulnerable to wildfires, as evidenced by the North Complex and Dixie wildfires that burned through Butte County federal lands in 2020 and 2021, respectively. These were just two of the over 18,000 wildfires that swept through California in 2020 and 2021 alone, burning nearly 7 million acres of forest land in the state. Even with tens of billions in federal disaster assistance to recover from these fires, and over \$37 billion in federal funding pledged to mitigate wildfire disaster risk in Western states over the next 10 years, Tribal crews are still struggling to find consistent and economically viable work.

Without access to federally funded contracts, Tribally trained and certified crews in Butte County, while outperforming other contractors in terms of quality and long-term ecological health, have been relegated to executing “bottom-of-the-barrel” contracts for local non-profits and the private sector, often operating at a loss and engaging in high-risk, labor-intensive work for as little as \$15 an hour. For example, one recent contract the Mechoopda TEK crew worked on for a local agency paid just \$1200 per acre, while the going rate for contracts with a similar scope of work (which takes into account the amount of hazard fuels and the difficulty of terrain) would have been worth at least \$3500-\$4000 per acre for an established private contractor.

While funding has been made available for further workforce training, certification and capacity building through some of our non-profit partners, the lack of access to quality contracts in the current post-disaster environment leaves us with a base of highly qualified Tribal land management workers without regular or adequate work opportunities for these individuals and organizations to survive, much less grow their programs without a disproportionate amount of roadblocks and difficulties.

#### *Ecological Outcomes and Continued Wildfire Risk*

This thread by local pyrogeographer Zeke Lunder ([https://twitter.com/wildland\\_zko/status/1415909664449957888](https://twitter.com/wildland_zko/status/1415909664449957888)) during the Dixie Fire of 2021 does a very good job of outlining the connection between logging practices and increased wildfire risk. These same practices – of mechanical clearcutting and leaving huge piles of slash to dry and become ladder fuels – are commonly used in post-disaster salvage logging and thinning operations conducted by large corporate contractors. I have seen the results of these practices with my own eyes on BLM parcels within the Camp Fire burn scar (see photos below) – many slash piles are even left under unremoved dead trees that, in a few years, will become highly volatile ladder fuels for the next fire.



*Photos from the BLM Upper Ridge Nature Preserve, Magalia CA, after a conventional thinning operation.*

These methods of post-fire clearing, while providing immediately apparent deliverables for a contract, are untenable in the long run and make California forests even more vulnerable to future wildfires. As real-time monitoring and fire mapping have become far more accessible in the last few years, the patterns are apparent – wildfires spread faster and hotter over areas with clearcuts. Timber plantations are also characterized by monocropped stands of even-aged trees that are replanted over slash, which also provide consistent and dense fuel for a wildfire to burn through like a matchbook, especially in periods of extreme drought – as illustrated by this dramatic video from the Dixie Fire that went viral on social media on July 24<sup>th</sup>, 2021:

<https://twitter.com/melaniemperron/status/1419087341310803972>

On the other hand, more wildfire-resilient forest areas in California – areas where, even when a wildfire burns through, tend to slow it down and burn with low intensity, close to the ground – have high biodiversity of fire- and drought- adapted native species, age diversity in trees, healthy riparian habitats, and retain healthy meadows and wetland areas that not only act as firebreaks, but also sink and store water to keep the landscape hydrated during dry seasons. And, as wildfire scientists testified to Congress on June 29<sup>th</sup> 2021 (<https://thehill.com/policy/equilibrium-sustainability/561178-top-wildfire-expert-prescribes-controlled-burns-as>), previously burned areas and areas treated with low-intensity prescribed fire – practices that mimic, albeit crudely, the age-old technologies of Indigenous fire – are far and away the most effective defense against uncontrolled wildfires. Current advances in wildfire science that incorporate insights from Tribal practitioners and traditional ecological knowledge also have implications in reforming post-fire recovery guidelines and regulations for salvage logging, thinning, firebreak management, and replanting/restoration projects.

While firefighting remains the focus of most discussions regarding wildfire management, including in recent federal aid discussions hosted by the White House, much more scrutiny and emphasis needs to be placed on proactive management of forests (including controlled burns) and overall forest health, both before and after wildfires – and California Tribes, as the original stewards of the land, must have a meaningful seat at the table. Tribes, Indigenous practitioners and their voices need to be taken seriously not only as meaningful sources of expertise, but also as Native Sovereign Nations and government-to-government partners within local areas of high wildfire risk. California Tribes are relatively unique in that, with very few exceptions, they do not have large reservations (a consequence of Congress' refusal to ratify the 1851 Peace and Friendship treaties), and have very little access to land where they can engage in large, landscape-scale stewardship projects that will prove the worth of their knowledge and experience on the ground.

Many partnerships, such as prescribed fire training exchanges (known as TREX programs), are already being formed at the local level between Tribes, agencies and community-based Prescribed Burn Associations, and California legislation has recently been passed (AB 642 and SB 332) to support Tribal cultural burning and step up the pace and scale of off-season prescribed burns. While these steps are encouraging, there is little to no mention of these efforts in discussions at the federal level in terms of disaster response and recovery procedures – areas

where exponentially more amounts of funding are being directed, but towards private contractors using outdated, ineffective techniques that, over the long term, have far less bang for the buck. Especially on federal public lands, the Trust Responsibility of the federal government to federally recognized Tribal Nations means that Tribes have legal standing to be included in federal aid discussions as government agency partners, and as primary stakeholders whose knowledge of the land should carry decisive weight in consideration and oversight of recovery operations within their ancestral territories.

### *Regulatory Oversight Concerns and Solutions*

I have identified some regulatory issues that, if addressed, can help to mitigate these structural inequalities in the areas of land management and disaster recovery, and help to bring agency practices in line with scientific consensus and a changing, more progressive policy environment on both state and federal levels. Tribal engagement and Traditional Ecological Knowledge are being increasingly recognized, most prominently in President Biden’s Executive Memorandum on Indigenous Traditional Ecological Knowledge (ITEK) of November 15, 2021, USDA/DOI Joint Executive Order No. 3403, and California’s new Wildfire Adaptation Plan adopted in 2020, as a critical factor in effective approaches to mitigating wildfire risks, restoring ecosystem health, and adaptation / resilience in the face of climate change. This recognition in science and policy can, and should, result in changes in the ways that federal disaster aid policies and programs are carried out on the ground, and manifest in material benefits and opportunities for Indigenous Tribes to lead the way in the stewardship of their ancestral lands in ways that will benefit us all.

The recommendations below build upon already existing policy authorities and pathways, emphasizing the role that regulatory oversight can play in addressing the problems we currently face in wildfire disaster management and recovery.

#### *Tribal Consultation and NEPA*

Consultation with Tribal governments on any major land project is required under the National Environmental Protection Act (NEPA), including projects exempt from environmental review. Current consultation practices, however, are exclusively directed at what are called “stone-and-bone” concerns with human remains and archaeological discoveries. However, Indigenous people, cultures, and connections to ancestral territory are still living and actively utilizing native plants and ecosystems today, and cultural resource protections for federally recognized Tribes have expanded in recent years to include living cultural resources and ancestral landscapes in federal public lands. The reason FEMA cited for their refusal to meet with local Tribes requesting consultation on disaster recovery contracts after the Camp Fire was that the agency had already fulfilled their legal obligations by consulting with archaeology-focused Tribal THPO offices and providing for cultural monitoring on debris removal for “stone-and-bone” discoveries. This very narrow interpretation of the NEPA requirement precludes any further engagement with Tribes on critical matters of environmental, cultural and economic impacts, and does not reflect the current scope of cultural resource protections in state and federal law.

Regulatory guidelines on Tribal consultation should be updated to reflect the full scope of Tribal concerns as outlined in state and federal laws, and fully uphold the Trust responsibility on federal lands. As effective agents of the federal government in local settings, Tribal governments can be the federal government's eyes and ears on the ground when it comes to environmental oversight.

- Tribal consultation requests should be honored, regardless of prior agreements and meetings on archaeological resources, to include the full scope of cultural resource protection policies; and dialogues between Tribes and government agencies should remain open throughout the entire disaster recovery timeline to address unforeseen impacts to cultural resources.
- Consultations should be made with Tribes that have the most direct MLD (Most Likely Descendant) connection to the specific area under consideration (such as a burn scar). Currently, Tribal listings for consultation are disseminated by County jurisdictions, which often do not specify which Tribe's ancestral territories are being affected.
- Tribal governments and intertribal consortiums in affected areas should be notified and invited to interagency discussions before, during, and after natural disasters as primary stakeholders.
- Some Tribes, such as the Mechoopda Tribe, have declared specific living cultural resources (such as keystone plant species) and ancestral landscapes as protected resources under Tribal law. This is supported in California by state law AB 52, as well as recently expanded provisions under Section 106 of the National Historic Preservation Act. These resources are thus also covered under federal NEPA protections, and expanded consultations on non-archaeological resources (as identified by Tribal governments) should also be required for full NEPA compliance.

#### *Federally Funded Disaster Recovery Contracting*

- Guidelines for distribution of Recovery Assistance (RA) funding from FEMA and state-level partner agencies should be updated to reflect Tribal entitlements and access to funded programs on request, as outlined in the National Disaster Response Framework.
- Tribal governments and intertribal consortiums in affected areas should be involved in interagency discussions early and often during the contract scoping period to advise on best practices for ecological recovery, and to ensure equity in local contracting.
- Regulations on hazard fuels management and salvage logging on public and private lands should be updated to reflect the latest science and best practices to minimize future wildfire risk.
- Guidelines and criteria for Stage 3 (long-term recovery) RA funding for disaster mitigation projects should be updated to reflect the latest science and best practices. NEPA compliance is required even on projects that are exempt from environmental review, and Tribal consultation should be considered either as a requirement or mitigation measure on exemption requests.

#### *Public Lands Management and Shared Stewardship*

- Federal forest management policies and practices should be updated to reflect the recommendations (forthcoming) from USFS Tribal Relations departments in each region.

- State and federal leadership involved in high-level decision making on disaster recovery and mitigation should be informed by science, and guided by the ongoing discussions amongst scientists, Tribal practitioners, and interagency partners working in the areas affected.
- The Tribal Forest Protection Act should be reformed to be applicable to federal forest lands in Tribal ancestral territories regardless of their adjacency to Tribal reservations or trust lands.
- Long-term disaster recovery funding should be applicable to fund Tribal stewardship demonstration projects authorized by the Forest Service under the Indian Self-Determination Education and Assistance Act (Public Law 93-638, also known as “638 projects” or “contracts”).
- Federal government agencies should follow the recommendations of the Native Farm Bill Coalition in its implementation of Tribal provisions authorized in the 2018 Farm Bill.
- Agency-level staff in public land management agencies at all levels of government that receive federal funding for wildfire mitigation and disaster recovery should receive updated guidance that reflects Tribal rights and collaborative opportunities, and/or be required to undergo cultural competency training for Tribal relations.