

**TESTIMONY SUBMITTED BY RON SUPPAH, VICE CHAIRMAN,  
THE CONFEDERATED TRIBES OF THE WARM SPRINGS  
RESERVATION OF OREGON,  
to the HOUSE APPROPRIATIONS SUBCOMMITTEE  
FOR THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES  
REGARDING FY 2012 APPROPRIATIONS FOR  
THE BUREAU OF INDIAN AFFAIRS and THE INDIAN HEALTH SERVICE  
May 4, 2011**

**SUMMARY**

Mr. Chairman, I am Ron Suppah, Vice Chairman of the Confederated Tribes of the Warm Springs Reservation of Oregon. I hereby present the following requests for the FY 2012 BIA and IHS appropriations.

- 1) Preserve and enhance BIA and IHS budgets.**
- 2) In BIA Forestry, significantly increase the BIA basic TPA Forestry budget.**
- 3) In BIA Forestry Projects, add \$5 million for Forest Development.**
- 4) In BIA, provide \$5 million for Endangered Species funding, including \$2.3 million for Northern Spotted Owl and marbled murrelet surveys.**
- 5) In BIA Law Enforcement, support funding increases for Criminal Investigations, Detention/Corrections, Conservation Law Enforcement, and Tribal Courts.**
- 6) In BIE, fund Johnson O'Malley at \$27 million.**
- 7) In IHS, expand Contract Health Services funding by \$100 million.**
- 8) In IHS, A) add \$50 million to Contract Support Costs designated to new contracts, B) require that Contract Support Cost appropriations for new contracts be used for those purposes, and C) protect Direct Service Tribal funds at the Regional level.**

**1) Preserve and enhance BIA and IHS budgets.**

Mr. Chairman, the Confederated Tribes of the Warm Springs Reservation of Oregon wish to express our appreciation for your efforts, and the efforts of this Subcommittee, to preserve the Bureau of Indian Affairs and Indian Health Service budgets serving the Indian people. Certainly, these are difficult fiscal times, but from our Tribe's perspective, federal obligations to Indian tribes are not contributing factors to these difficulties and are pursuant to U.S. duties based on treaties, laws, and executive orders. Yet all too often across history, the United States has treated the funding of Indian programs with indifference, if not hostility, allowing them to lag when the budget is otherwise increasing and then requiring a full portion of sacrifice when times are tight. It is no surprise that our communities struggle, and we really want to express our thanks for the courage and dedication you demonstrate in seeking to protect our programs in these times.

With that in mind, we also wish to comment below on the proposed FY 2012 BIA and IHS budgets, to keep the Subcommittee apprised of our priorities and concerns.

**2) In BIA Forestry, significantly increase the BIA basic TPA Forestry budget.**

Mr. Chairman, I am pleased to note the \$1 million increase requested for BIA TPA Forestry. It is long overdue, and we urge, at the very least, its retention in the BIA's FY 2012 budget. But it remains deeply insufficient. From October 2003 – the start of FY 2004-until January 2011, inflation has risen 19%. During the same period, the BIA Forestry budget has increased by only 11%, and absorbed personnel and other fixed cost increases have further

eroded the program's effectiveness. Increasingly, the BIA is unable to perform the detailed, comprehensive management required of modern forest ecosystems. In fact, our Tribe has challenged the BIA for failing its trust responsibility to manage our natural resources, principally including our forest, and other tribes are also looking into similar challenges. Our Tribe has initiated action to assume the BIA's role in this regard. However, adequate funding is eroding, making a problem situation more challenging. To start to correct the situation, to start moving the funding of Indian trust forestry toward parity with the funding the U.S. provides for managing its other forests, Warm Springs urges a multimillion dollar Congressional increase to BIA Forestry for FY 2012 as the start of a long-term initiative toward more equitable federal management of Indian trust forests.

**3) In BIA Forestry Projects, add \$5 million to Forestry Projects for Forest Development.**

In the BIA Forestry Projects budget, Warm Springs urges an increase of \$5 million to begin eliminating the one million acre backlog of Indian trust commercial forest land in need of Forest Development treatment, including thinning and replanting. Nationally, this is about 20% of the tribe's 5 million commercial trust forest acres. For timber tribes, forests are often an economic mainspring, and 20% of that acreage must not be allowed to remain underproductive or out of production altogether. At Warm Springs, much of our 250,000 acre commercial forest is in need of thinning, replanting, fuels reduction and pest control. As on other commercial Indian forests, these treatments improve the health and resiliency of our principal resource and improve its future value. Moreover, Forest Development work is mostly done by tribal crews, and provides good, healthy productive work for the many unemployed throughout Indian Country, particularly our young people. With tribal economic development such a national priority and with Native American unemployment persistently three, four, or five times higher than the overall population, Forest Development funding should be supported by Congress as a key tool for building tribal economic value and jobs, both today and in the future.

**4) In BIA, provide \$5 million for Endangered Species funding, including \$2.3 million for Northern Spotted Owl and marbled murrelet surveys.**

In FY 1993, with the advent of the Northern Spotted Owl ESA listing in Northwest forests, this Subcommittee initiated BIA Endangered Species funding to help address the owl on tribal lands. In FY 1995, Congress provided \$1.83 million to BIA for northern spotted owl and marbled murrelet activities. In FY 2002, Congress provided a total of \$3 million for BIA's national Endangered Species program. Thereafter, despite ESA mandates upon tribes, BIA Endangered Species appropriations requests dwindled to the point that, in FY 2007, it only funded one position in the Central Office, and there was zero funding directed to reservation-level ESA work anywhere in the United States.

Since then, Warm Springs appreciates this Subcommittee's work to restore the BIA's ESA program. BIA distributes that funding to more than thirty-one locations nationwide, of which Warm Springs receives about \$45,000 for the northern spotted owl. Regretfully, that amount can only address a fraction of our ESA needs, and is less than half of what we received for the northern spotted owl more than twelve years ago, without factoring in inflationary adjustments. Additionally, our Reservation is affected by listed spring Chinook and summer steelhead, for which no funding has been designated, making them pure unfunded mandates.

Today, the U.S. Fish and Wildlife Service is completing a draft court-directed Revised Recovery Plan for the Northern Spotted Owl that includes all high-quality habitat on Indian trust land, potentially subjecting more Indian trust land to the dictates of NSO habitat management. More than twenty tribes could be affected, yet for FY 2012, the Administration is requesting only \$1.247 million for Endangered Species mandates on Indian land nationwide. Warm Springs requests that the Subcommittee provide at least \$5 million for the BIA Endangered Species budget nationwide, and that at least \$2.3 million of that be designated for Northern Spotted Owl and marbled murrelet surveys on affected reservations. These species are still listed, ESA compliance is required, and now the range of tribal lands potentially involved is poised to increase.

**5) In BIA Law Enforcement, support funding increases for Criminal Investigations, Detention/Corrections, Conservation Law Enforcement, and Tribal Courts.**

Mr. Chairman, the Warm Springs Tribe appreciates the national BIA law enforcement increases provided by the Subcommittee in recent years. While our Tribe directly funds our patrol officers, the BIA funds our detectives and a significant part of our detention personnel. Both of those functions have seen modest increases in the last two years, but not enough to address a law enforcement staffing problem that plagues Warm Springs and many other tribes that contract law enforcement functions – the continual loss of trained personnel due to low pay. Our 638 funding from BIA is simply insufficient to retain trained law enforcement personnel. We work hard to attract new hires, but after a couple of years on the job, when they are trained and familiar with our community, they leave for better paying jobs. Accordingly, we support the FY 2012 proposed increase for Criminal Investigations & Police Service, of which we understand \$3.5 million will go to tribal base funding, and the \$10.4 million increase for Detention/Corrections, a portion of which should also go into tribal base funding. Both of those increases could help ease the pay inadequacy of our detectives and detention personnel.

We also support the \$1 million to initiate a Conservation Law Enforcement Officer program. Conservation enforcement assistance is needed at Warm Springs. As a timber tribe with National Forest on three sides, forest products theft is a constant problem, and illegal marijuana groves are becoming an increasing problem here and on other reservations. Our eastern and southern boundaries are described by rivers rich with fish and popular with the recreating public, so policing for illegal fishing is needed. A Conservation Law Enforcement officer would help with all these issues, allowing regular Tribal law enforcement personnel to focus on other matters such as increased gang violence and drug activity with surrounding jurisdictions.

We also support the \$2.5 million increase for Tribal Courts, which are an essential governmental element for both the exercise of sovereignty and effective public safety and law enforcement.

**6) In BIE, fund Johnson-O'Malley at \$27 million.**

Mr. Chairman, for FY 2012, we urge that you double Johnson-O'Malley funding to \$27 million. While the Bureau of Indian Education request of \$526 million for Elementary and Secondary Education provides direct services to perhaps 15% of Indian children, the only BIA Elementary and Secondary Education funding available for the remainder of Indian school children is Johnson-O'Malley, which has declined from \$16.7 million in FY 2004 to the \$13.4 million requested for FY 2012. Moreover, in recently past years, the Administration has sought

to eliminate JOM altogether. But JOM funds are essential. They are the only federal education funds subject to tribal direction for tribal students in local public schools. BIE has an obligation to all Indian children, and for at least 85% of them, JOM is the only evidence of that. Compared to half a billion dollars for perhaps 15% of Indian school children, doubling JOM to \$27 million is a modest but helpful gesture in recognition of the U.S. treaty and trust obligation to assist all Indian school children. It will also help address the growth in the number of Indian school age children to become more self reliant adults and citizens.

**7) In IHS, expand Contract Health Services funding by \$100 million.**

The Warm Springs Tribe appreciates the Administration's and this Subcommittee's strong support in recent years for IHS Contract Health Services (CHS). The FY 2012 CHS request is particularly encouraging with increases of \$79.7 million to maintain its level of service and \$89.6 million for program expansion. We ask that the Subcommittee accentuate this positive effort by increasing the CHS program expansion to a full \$100 million. An increase of \$10.4 million, while admittedly modest, would clearly signal the Subcommittee's commitment to working though the long and growing backlog of non-life-or-limb CHS cases that today is estimated to exceed \$1 billion. With no IHS hospital in the Northwest, tribes in our Region are dependent on CHS funding for at least minimum health care. We believe rounding up CHS expansion to \$100 million would be an important step in starting to seriously work through the backlog.

**8) In IHS, A) add \$50 million to Contract Support Costs designated for new contracts, B) require that Contract Support Costs for new contracts be used for those purposes, and C) protect Direct Service tribal funds at the Regional level.**

Mr. Chairman, for years the IHS has had a de facto moratorium on new Indian Self-Determination Act contracts. They won't issue a new 638 contract unless they have contract support cost funds for it, and all contract support funds, including Congressional increases, are consumed trying to satisfy existing contracts. Given such statements in IHS's justification, apparently the agency has no intention of changing this unfairness. Congress must intervene to break the moratorium and allow new tribal contractors to take part in the sovereign and health care benefits of 638. To that end, we ask that Congress add and designate \$50 million in contract support costs for new IHS contracts and require those funds be used for that purpose by changing the IHS appropriations language from "may" to "shall" to mandate that appropriations for new or expanded contract support costs "shall" - not "may" - be used for new or expanded contracts.

We also ask that the budgetary interests of Direct Service Tribes in otherwise unobligated Regional Office funds be protected for those Tribes. Too often, Portland Region Direct Service Tribes have seen the lion's share of discretionary Regional Office funds sent to Self-Governance tribes, with little or nothing left for the Direct Service Tribes. We ask that the Subcommittee inquire into this practice and take appropriate corrective action to assure the fair and unbiased participation of Direct Service Tribes in IHS resources.

That concludes my testimony. Thank you.

**TESTIMONY OF DELORES PIGSLEY, TRIBAL COUNCIL CHAIRMAN  
FOR THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON**

**BEFORE THE HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON  
INTERIOR, ENVIRONMENT AND RELATED AGENCIES FY 2012 BUDGET**

**Public Witness Hearing on Native American Issues  
May 4, 2011**

Over 32 years as a Siletz Tribal Council Member, 26 of those as Tribal Chairman, I have attended uncountable meetings of federal and tribal representatives to advocate for adequate funding for Tribes. I have submitted numerous written testimonies to various federal agencies whose budgets affect Tribal funding. I have also presented testimony at Congressional Sub-committee budget hearings. I do this always with the belief that in hearing the facts “on the ground”, appropriators will be persuaded to provide Tribes with the means to implement self-governance as envisioned in federal law, policy, treaties and the Constitution. Tribes understand that the whole nation is going through tough economic times. However, even in good times, Tribes commonly exhibit the lowest socio-economic conditions.

Funding cuts next year will likely impact Tribes more than many other groups. Some areas of BIA funding are more critical than others and these are addressed below. It is important to know that the Siletz Tribe is a Self-Governance Tribe. What this means is that the Tribe has negotiated with the BIA for our share of various BIA programs funding which we receive annually in one lump sum. From there the Council and administrative staff determine how to allocate these funds to areas of most need in our annual budgeting process. This means reducing or eliminating funds in one area to allocate to another with a higher priority. In addition the Tribe accesses grants and contracts from public and private sources to enhance our programs. We also contribute tribal revenue. This is the only way we can maintain necessary services. The BIA budget has never adequately funded tribal programs and contract support costs.

**Tribal Courts.** The Siletz Tribe is a Public Law 280 (PL280) tribe. This 1953 Act transferred federal jurisdiction over Indian Tribes to six states (including Oregon). The Act has been controversial since passage—Tribes objecting to its imposition and failure to recognize tribal sovereignty and self-determination and states object to an unfunded mandate. In her book “Planting Tail Feathers: Tribal Survival and Public Law 280”, Professor Carole Goldberg (recognized authority on PL280) makes the case that while PL280 intended to address lawlessness on reservations it instead contributed to it. Professor Goldberg contends that confusion and controversy over PL280 contributed to jurisdictional gaps where either no government exercises authority or they lack the resources to do so. She states this situation was exacerbated when the BIA adopted a policy of not funding tribal courts and tribal law enforcement for PL280 tribes. That policy is reflected in the Siletz Tribe’s experience.

The Siletz Tribal Court was established in 1984 as a Trial Court and exercises civil jurisdiction, with an average annual caseload of 500. The Court is staffed by a part-time Chief Judge, a full-time Court Administrator, a part-time deputy court administrator, four on-call judges—two Appellate Court, one District Court and one Gaming Court. The 2011 Court budget

is \$235,544, including \$21,344 or 9% coming from BIA funds. The Tribe reprograms compact dollars to fund the difference. In 2009 the BIA contracted with Coochise Consulting to review all Tribal Courts; Siletz was among them. The Consultants made several recommendations to improve the court, including expanding jurisdiction and improving security for Court employees. These recommendations require additional funding. At the time, the Tribal Court budget was \$207,000; \$10,000 or 5% was BIA funds. The Consultant reported that this federal contribution was the lowest amount among 50 courts that had been reviewed. It has long been acknowledged that Tribal Courts are underfunded. Yet, the BIA's FY 2012 request is for \$1.2 million cut from the \$24.7 million appropriated for 2010 and the 2011 continuing resolution. We recommend that Tribal Courts be funded at \$50 million so that Tribes can fully exercise their jurisdiction to protect tribal members and create safe communities.

**BIA Law Enforcement.** The high incident rates for crime and violence on Indian reservations—especially against women—have received a lot of attention the past few years. Congress responded in 2010 with passage of the Tribal Law and Order Act (TLOA) to strengthen tribal law enforcement authority and improve programs to address reservation conditions that impact crime and violence. For this new law to have meaning there must be adequate funding. The Siletz Tribe established a tribal police force in 1998 with one Police Chief using COPS grant and tribal funds. By 2005 the department included the Chief, two officers, four reservists, a part-time clerk and a security guard. Unfortunately, funding could not keep pace. The Tribe suspended law enforcement operations and in 2006 Tribe purchased limited law enforcement services from a nearby city police department, which continues to this day. The cost has risen each year and again we are looking at modifying (likely reducing) our law enforcement program. For 2010/11 the Tribe is paying \$399,970 for these services; BIA funding covers 22% or \$95,582 of this cost. We strongly urge increasing Law Enforcement from \$303 million to \$333 million so tribes fulfill the promise of the TLOA.

**Indian Child Welfare.** The Tribe receives \$55,000 for ICW through the BIA Self Governance compact. The 2011 budget for ICW is \$183,262. To cover this program the Tribe shifts dollars from other programs to this priority area. The Tribe has entered into agreements with the state of Oregon to access other federal resources, including Title IV-E foster care payment reimbursements to further supplement services. Our Tribe is currently developing a Title IV-E Plan to directly administer this program. One major barrier to this effort is the match requirements and the limits on reimbursements. Unlike states, tribes have little to no significant tax base to generate revenues to cover federal match requirements. The Siletz Tribe wants to access Title IV-E funding the same as states. As you can see it will cost us money to do so. We are already severely underfunded as it is. And, again, the BIA is requesting a reduction from \$11.1 million to \$10.8 million for another critical program. We recommend \$70 million for BIA Indian Child Welfare funding with \$2 million of this set aside for Tribes implementing direct Title IV-E programs. This funding will enable Tribes to ensure safe placements where children remain connected to their families and their heritage.

**Johnson O'Malley Act (JOM).** In 1995 funds for Johnson O'Malley were frozen, limiting funds to a tribe based upon population count in that year. The Siletz Tribe receives \$89,900 for this program, which does not cover services for children or staff time. In 2010, the Tribe provided 1,986 services to JOM eligible children for tutoring, school supplies, and athletic

and scholastic fees. The number of children that receive services from 1995 to now has increased each year. The Tribe serves tribal children in the three largest cities in Oregon—Portland, Salem and Eugene. The FY 2011 BIA request for JOM is \$13.2 million—\$264,000. This request should be increased \$10.8 million to fully restore funding to \$24.3 million.

**Adult Education, Adult Vocational Training and Higher Education.** Through the Bureau of Indian Affairs Self-Governance funds, the Confederated Tribes of Siletz Indians of Oregon provides Adult Education, Adult Vocational Training (AVT), and Higher Education. Every year we see an exponential growth in the number of students with no increase in funding level. In FY 2002, the BIA allocated \$30 million for scholarships and adult education. It is \$34 million in FY 2010 and 2011. Based on our own experience, these budgets should be trebled, with an increase to \$100 million.

In 2010, the Tribe had 159 requests for Adult Education. With a budget of only \$4000 requests are limited to \$400, so only a small fraction of requests are funded. In 1995 the Tribe had 12 AVT and 35 Higher Education students; in 2010 there were 47 AVT and 192 Higher Education students. From 2004 through 2010 the Tribe received \$665,770 for AVT in our BIA Self-Governance Compact. Actual cost to fund AVT students for these six years was \$1,120,598—a \$454,828 shortfall. The Tribe made up this difference using tribal revenues and shifting funds from other tribal programs. For that same six-year period for Higher Education our Compact amount was \$827,880; actual costs were \$5,167,556 and the Tribe covered the \$3,581,228 difference. These are difficult funding decisions, but the Tribe makes them because we view education as one of the best investments we can make for the future of our members.

Future funding must increase. In 2010 the tribe spent \$264,785 for AVT students; the 2011 Compact provides \$140,000. 2010 Higher Education costs were \$878,801; the compact provides \$117,062 for 2011. Clearly the Tribe will be covering yet another sizeable shortfall. To stretch funds the Tribe caps scholarship funding to the equivalent costs of attending a public university. However this limits scholastic opportunities for tribal members accepted at prestigious out-of-state or private college and deprives them from achieving potential. The BIA is requesting \$32,782,000 for FY2012—a reduction \$1.8 million. The Siletz experience clearly shows that over a seven year period BIA funds covered on average only 16% of our higher education need and 60% of our AVT need. It is insulting to see a recommended reduction. We recommend that Scholarships and Adult Education (TPA) be funded at \$65 million to ensure that no tribal child is left behind.

**Endangered Species.** Tribal lands currently support habitat for three species listed by the federal government as threatened under the Endangered Species Act: marbled murrelet, northern spotted owl, and Oregon Coast coho salmon. Before any ground disturbing activities can occur on Tribal trust land, surveys for each of these species must be conducted and evaluated. We must then consult with one of two federal wildlife agencies (U.S. Fish and Wildlife Service for the murrelet and owl or National Marine Fisheries Service for the coho), both of which require an extensive amount of information prior to consultation and ongoing monitoring during and after implementation of the activity. No money is provided to the Tribe by either of the federal wildlife agencies or the BIA to carry out the surveys, information gathering and monitoring. Yet we are not allowed to harvest timber, build houses, or conduct

any other major ground disturbing activities on Tribal trust lands without performing those functions. It is an unfunded mandate that directly impacts the Tribe's ability to govern its own affairs. The total annual cost to employ a Tribal biologist to carry out the needed endangered species functions and to conduct the required surveys is \$115,000. Interior's 2012 Budget In Brief for Indian Affairs reports that there was \$1.249 million budgeted for Endangered Species in 2010 and \$1.249 million was enacted for 2011. However, the BIA is recommending \$1.247 million for 2012—a \$2 million reduction. In FY 2002 the Endangered Species was funded at \$3 million. We recommend restoring that funding, allowing for inflation, to \$3.5 million to assist Tribes with complying with the Endangered Species Act.

**Pre-commercial Thinning.** The Tribe currently receives approximately \$23,000 a year in Forest Development funds from the BIA. This money must be used for timber stand improvement activities such as reforestation and pre-commercial thinning. If contracted out, this will cover approximately 80 acres of treatment annually. Unfortunately, our current backlog of pre-commercial thinning needs exceeds 1,000 acres. Many other tribes face a similar situation, with extensive backlogs of unfunded projects. Without implementation of these projects, future timber revenues are in jeopardy due to forest health issues of overcrowding, insect attack vulnerability and fire hazard. This has a very direct impact on Tribal self sufficiency. Despite attempts to include funding for these types of projects in the economic stimulus packages, no additional money has been allocated to the BIA or to Tribes to address the backlog of timber stand improvement needs. For the Siletz Tribe, \$250,000 would be needed to erase the current pre-commercial thinning backlog.

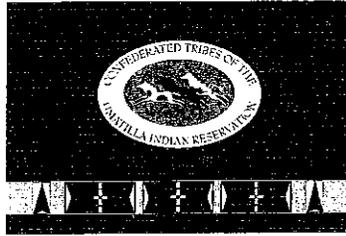
**Contract Support Costs.** An increase in contract support costs (CSC) is necessary as tribal governments continue to assume control of new programs, services, functions, and activities under Self-Determination and Self-Governance. Tribes are legitimate government contractors, whose indirect rates are objectively calculated by the Inspector General. Payment of these costs to tribes is required by federal law (ISDEAA) and has been upheld by the U. S. Supreme Court (*Cherokee Nation v. Leavitt*). Each year insufficient funds for contract support costs leaves Tribes to address these imposed shortfalls, resulting in reduced services to tribal members. For Siletz, we have seen tribal child welfare positions go unfilled, while remaining staff carry caseloads two and three times higher than their state counter-parts. In some cases the Tribe has to seek additional grants to fund salaries and services—our Natural Resources clerk has three funding sources.

Without adequate contract support costs funding, the promise of the 1975 Indian Self Determination and Education Assistance Act (ISDEAA) to allow tribes to contract and compact to administer programs formerly administered by federal agencies such as the BIA goes unfulfilled. Under contracting and compacting, tribes have increased the quality and level of services to tribal members under these policies. Failure to adequately fund CSC defeats the very programs that appear to be helping improve conditions for American Indians and Alaska Natives. I urge you to fully fund contract support costs for BIA at \$212 million.

Tribes go to extraordinary lengths to pull together resources to meet the priority needs of our tribal members, often at the expense of forgoing or reducing other services. I hope that our story convinces you that the increases outlined above are essential for Tribes to create safe, healthy, functioning communities. Thank you for allowing me to share these recommendations.

**Confederated Tribes of the  
Umatilla Indian Reservation**

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**Testimony of N. Kathryn Brigham, Secretary, Board of Trustees  
Confederated Tribes of the Umatilla Indian Reservation**

**Regarding the FY 2012 Indian Health Service and Bureau of Indian Affairs Budgets**

**Before the House Committee on Appropriations  
Subcommittee on Interior, Environment and Related Agencies**

**May 4, 2011**

On behalf of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), thank you for the opportunity to submit testimony in support of budget items in the FY 2012 Indian Health Service (IHS) and Bureau of Indian Affairs (BIA) appropriations. The CTUIR supports the following:

1. In Indian Health Service, approve the Administration IHS budget in the amount of \$4.6 billion which includes much needed increases for Contract Health Services (\$89.6 million), Catastrophic Health Emergency Funds (\$10 million) and Contract Support (\$63.3 million);
2. In BIA Public Safety, add \$30 million to Tribal Courts for public defenders, law trained judges, and related detention costs;
3. In BIA Rights Protection, restore the \$2,101,000 elimination of Litigation Support/Attorney Fees.

The CTUIR entered a Treaty with the United States in 1855 in which we ceded to the United States over 6.4 million acres in exchange for our tribal homeland on the Umatilla Indian Reservation, recognition of our Tribal sovereignty and the rights we reserved to fish, hunt, graze cattle and collect our traditional foods and medicines. The trust obligations of the United States that originate in our Treaty, and subsequent federal laws, are given effect by the programs funded by the BIA and IHS budgets that are the subject of this testimony. On behalf of our Tribes, we appreciate this opportunity to provide the Subcommittee our views on these important budgets.

Before addressing any specific budget issue, it is important that this Subcommittee be reminded of the historic underfunding of tribal programs. As detailed in the Civil Rights Commission July 2003 report entitled *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*, the underfunding of tribal programs is extensive and has serious and adverse impacts on the delivery of governmental services to tribal communities. In the Commission's letter of transmittal to the Congress, the Commission stated that its study:

“reveals that federal funding directed to Native Americans through programs at these agencies [which include the BIA and the IHS] has not been sufficient to address the basic and very urgent needs of indigenous peoples. Among the myriad unmet needs are: health care, education, public safety, housing and rural development. The Commission finds that significant disparities in federal funding exist between Native Americans and other groups in our nation, as well as the general population. Among immediate requirements for increased funding are: infrastructure development, without which tribal governments cannot properly deliver services; tribal courts, which preserve order in tribal communities, provide for restitution of wrongs, and lend strength and validity to other tribal institutions; and tribal priority allocations, which permit tribes to pursue their own priorities and allow tribal governments to respond to the needs of their citizens.”

We request that the Subcommittee develop the 2012 BIA and IHS budgets with this historic underfunding in mind.

The CTUIR submits this testimony fully recognizing the economic recession our country continues to labor under and the historic federal deficits that the recession has created. The Subcommittee needs to be aware that the CTUIR is doing everything in its power to assist in the provision of governmental services to our tribal community and the residents of our Reservation. With the exception of small dividends that we pay to our tribal membership, all revenues generated by our tribal enterprises are budgeted to supplement the budgets of our tribal departments providing essential governmental services on our Reservation. These tribal enterprise funds are used to supplement the budgets of our Police Department, Fire Department, our State chartered high school, our Public Works Department and the many tribal programs to protect the natural resources on our Reservation and those outside our Reservation essential to the exercise of our Treaty reserved rights.

On behalf of the CTUIR, let me express our appreciation to the Subcommittee for sparing the BIA and IHS budgets from the brunt of cuts the Subcommittee has made for FY 2011. We respectfully request that these budgets receive similar treatment in FY 2012. Our request is based upon our Treaty, the trust obligations of the United States and the historic underfunding of tribal programs as document by the Civil Rights Commission.

Let me first offer specific comments on the IHS budget. Our governing body, the Board of Trustees, has identified improving the health of our tribal community as our top priority and therefore we will address the IHS budget first. Our comments are as follows:

1. The CTUIR strongly supports the Administration's \$4.6 billion IHS budget. Perhaps nowhere in the federal budget is the chronic underfunding of Indian programs more evident than it is in the IHS budget. The IHS budget saw increases of less than 2.5 % in the FY 2002 through FY 2007 budgets that could not keep up with medical inflation costs and increases in the IHS eligible population. For these reasons, the CTUIR urges the Subcommittee to exempt the IHS from any further reductions.

2. The CTUIR specifically expresses its support for the increases in the Contract Health Services (CHS) budget and the Catastrophic Health Emergency Fund (CHEF), which are \$89.6 million and \$10 million, respectively. The CTUIR has compacted with the IHS to operate our Yellowhawk Tribal Health Clinic, a facility where I served as the Chief Executive Officer for ten years before being elected as Tribal Chairman in 2009. Yellowhawk typically exhausted its CHS and CHEF funds long before budget year ended. It is critical that funding for these programs be increased to cover the costs of medical inflation and our growing patient population.
3. Finally, the CTUIR strongly supports the increase in the IHS budget for contract support in the amount of \$63.3 million. As the Subcommittee is aware, contract support costs are mandated by the Indian Self-Determination and Educational Assistance Act, but appropriations have typically been less than the contract support costs incurred by tribes who contract or compact the IHS function. The increase in the contract support line item will help meet the statutory obligation of the federal government to pay the administrative costs associated with tribal operation of IHS funded medical facilities.

The specific CTUIR comments on the BIA budget are as follows:

1. The CTUIR supports the increased funding in the Administration's budget under the Strengthening Tribal Nations category. Specifically, the increase in funding for contract support, law enforcement including criminal investigations and police services, tribal courts and conservation law enforcement, is greatly needed and appreciated. Also, we are pleased to note that most of the proposed increases within this category are in items that are included in the Tribal Priority Allocations or in other project funds, all of which go out to tribes to be used at the local level. As noted in the report cited above, this is one of the critical needs.
2. Passage of the Tribal Law and Order Act in 2010 was an historic event for tribes and a major advancement in their continuing efforts to improve public safety in Indian country. Among those advancements was the enhanced power of tribal courts to sentence felons up to 3 years in jail, provided defendants are accorded public defenders and law trained judges. These kinds of improvements require adequate funding. We recommend Congress fully fund all provisions of the Tribal Law and Order Act that authorize additional funding for law and order programs.

With particular regard to funding implementation of the Tribal Law and Order Act in the BIA Public Safety budget, CTUIR recommends a \$30 million increase for tribal court systems to hire public defenders, law trained judges, and detention related costs (a 2006 unmet needs report indicated a 42% shortfall). While we realize Justice Department funding is under the jurisdiction of a different Appropriations Subcommittee, we would also like to note recommendation of a \$20 million increase in FBI Indian country activities, which includes funding for 50 new Indian country agents; continued funding for Indian country Assistant United States Attorney positions created in 2010; a 7% Indian country set-aside for Office of Justice Program grants, a 50% increase in Indian

country specific COPS grant programs; and increased funding for Violence Against Women Act programs.

3. The CTUIR has prioritized and is actively pursuing a water rights settlement for its tribal homeland in the Umatilla Basin and in the adjacent Walla Walla Basin where agricultural diversions have destroyed once abundant salmon runs. We have been and continue to work cooperatively with the State of Oregon and basin stakeholders to satisfy tribal water rights claims while keeping whole existing water users in the basin. Federal law and policies created the challenge we face -- namely that the water has been given away twice: once to the Tribes under the *Winters* federal reserved water right doctrine and subsequently to irrigated agriculture, municipalities and others. The federal government must play an active role in, and fund, the resolution of this problem.

The CTUIR supports the \$1 million increase in the Water Rights Litigation/Negotiation line item, but strongly objects to the defunding of the Litigation Support/Attorney Fees line item. This defunding results in a loss of \$2,101,000 in attorney fees funding to pay for tribal legal costs to negotiate settlements of or litigate tribal water rights claims. We urge the Subcommittee to restore this funding to the BIA budget.

Chairman Simpson and Ranking Member Moran, we appreciate this opportunity to address the Subcommittee on the FY 2012 IHS and BIA budgets on behalf of the CTUIR and recognize that the Subcommittee has the difficult job of appropriating funds within budgetary restraints while being mindful of the federal deficit. We simply ask that you carry out your duty taking into consideration the trust obligations of the United States, the solemn promises made to tribes in their treaties, the historic underfunding of tribal programs and the needs for governmental services in our tribal communities. Please do not hesitate to contact us if you have any further questions. Thank you.

**TESTIMONY OF LARRY BLYTHE, BOARD MEMBER,  
INTERTRIBAL TIMBER COUNCIL, SUBMITTED TO THE  
HOUSE APPROPRIATIONS SUBCOMMITTEE FOR THE INTERIOR,  
ENVIRONMENT, AND RELATED AGENCIES ON  
FY 2012 APPROPRIATIONS FOR THE B.I.A. AND DoI WILDLAND FIRE  
MANAGEMENT,  
MAY 4, 2011**

**Summary**

Mr. Chairman, I am Larry Blythe, a long-time Board of Directors Member of the Intertribal Timber Council and Principal Vice Chief of the Eastern Band of Cherokee Indians. I am here today for ITC President Joe Durglo, Vice Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Nation in Montana, who is unable to attend. For the ITC, I offer the following recommendations for FY 2012 Indian forestry-related activities in the Bureau of Indian Affairs (BIA) and Department of Interior Office of Wildland Fire Management:

- 1) In BIA and USFS, direct a proposal to comprehensively evaluate and preserve tribal forestry and related processing infrastructure;
- 2) Add \$5 million in BIA TPA Forestry (BIA Natural Resources Management) to start moving toward parity with similar forestry budgets in other federal agencies;
- 3) Provide an increase of \$8 million for BIA Forestry Projects (BIA Natural Resources Management), including a \$5 million increase for Forest Development.
- 4) Provide \$5 million for BIA ESA (BIA Natural Resources Management);
- 5) Provide at least \$17.5 million for tribal trust land participation in Cooperative Landscape Conservation (BIA Natural Resources Management);
- 6) Support the Conservation Law Enforcement Officer Program (BIA Public Safety);
- 7) For DoI Wildland Fire Management: 1) Standardize DoI and USFS Wildland Fire funding and accounting, 2) Restore \$44.6 million for DoI hazard fuel reduction, and 3) Restore \$6.8 million for DoI Burned Area Rehabilitation.

**Intertribal Timber Council background.**

The Intertribal Timber Council (ITC) is a 35 year old association of 60 forest owning tribes and Alaska Native organizations that collectively manage more than 90% of the 18 million acres of timberland and woodland that are under BIA trust management.

Mr. Chairman, the forests which cover about one third of the Indian trust land base serve as the economic and cultural backbone for many Indian reservations. There is no other single natural resource as varied and as important to tribal governments and their members. Forests store and filter the water and purify the air to sustain life itself. They sustain habitats for the fish and wildlife that provide sustenance for our people. They produce foods, medicines, fuel, and materials for shelter, transportation, and artistic expression. And forests are vital to our cultural and spiritual lives. Moreover, they provide revenue for many tribal governments – sometimes the principal source of revenue - and employment for Indian people.

Mr. Chairman, you and many of your colleagues on the Appropriations Committee understand the value and importance of maintaining forests on the landscape to the economies and communities in your states, both for the commodities they produce and the environmental services they can provide. For many tribal governments and their members, healthy, productive, sustainable forests are critical. Tribes cannot lose their forests or their ability to process and market their forest products. For timber tribes, unhealthy, unproductive forests are simply unacceptable. Our ability to survive as distinct peoples and cultures are inextricably intertwined with healthy, productive forests.

The Intertribal Timber Council has been developing a concept we call “anchor forests.” An anchor forest is large tract of land that is maintained and managed to generate a perpetual stream of commodities and services to sustain the health and permanence of the forest and economies of local communities. Investments in managing, harvesting, transportation, and processing infrastructure are essential if we are to retain forests on the landscape. We believe that tribal forests and manufacturing enterprises could be, and ought to be, viewed as anchor forests that will help sustain both tribal communities and our neighbors into the future. Tribal sawmills are often a key element of tribal forestry, providing revenue, employment, and a means to maintain forest health for both tribes and their neighbors. The development of economically-viable sources of forest-based renewable energy will also depend on biomass supplies from forest products manufacturing facilities. As nontribal sawmills close, the viability of tribal sawmills becomes increasingly important to tribes, landowners of surrounding forests, and affected communities.

Tribal anchor forests – healthy and perpetually productive forests with their local communities and forestry infrastructure - require a level of commitment from communities and governments. Policies need to be stable and farsighted, and financial backstops must be in place to ensure that our forests are protected from loss from wildfire, insects, pests, and diseases and continue to provide the economic and environmental benefits to tribal and non-tribal communities alike. In support of the tribal anchor forest concept, we make the specific suggestions below regarding the FY 2012 BIA Forestry and related budgets (including US Forest Service), and the Interior Department’s Wildland Fire budget.

**1) In BIA and USFS, direct a proposal to comprehensively evaluate and preserve tribal forestry and related processing infrastructure.**

To help preserve tribal forests and forestry operations and keep their mills efficient, up to date, and operating, we request that the Subcommittee direct the BIA and USFS to work with timber tribes and the ITC to develop a comprehensive proposal to preserve tribal forestry, mills and associated harvesting, transportation, personnel infrastructure, and marketing and branding. In addition to the BIA programs below, the proposal should explore such options as low or no-cost loans, training and modernization grants, operating subsidies, and tribal wood product purchase preference. The proposal should be reported back to the Subcommittee, tribes, and agencies within six months following signing of an Interior appropriations bill.

**2) Add \$5 million to BIA TPA Forestry (BIA Natural Resources Management) to start moving it toward parity with similar forestry budgets in other federal agencies.**

Mr. Chairman, the ITC supports the \$1 million increase requested for BIA TPA Forestry, but must note the program's overall insufficiency and urge that \$5 million be added to start moving BIA TPA Forestry toward funding that is adequate and equal to that for other federal timber management agencies. Two independent reports (IFMAT reports 1993, 2003) have documented that total BIA Forestry per-acre management funding is less than half that of the National Forest System. More recent and specific reviews have shown that BIA TPA Forestry, which is primarily for on-going forest and harvest management, has fallen further and further behind both inflation and program adjustments for other federal forest management agencies. So, in addition to retaining the Administration's requested \$1 million increase to BIA TPA Forestry, we ask that an additional \$5 million be added to begin moving the on-going trust forest management program toward equity.

**3) Provide an increase of \$8 million for BIA Forestry Projects (BIA Natural Resources Management), including a \$5 million increase for Forest Development.**

The Administration's FY 2012 BIA Forestry Projects request of \$17.3 million extends the pattern of outright budget decline for BIA Forestry Projects since FY 2005, when \$18.5 million was appropriated. The Forestry Projects budget funds essential forest activities, including management inventories and planning, woodland management, Integrated Resource Management Plans, and Forest Development. The ITC requests that FY 2012 funding for BIA Forestry Projects be increased by \$8 million, with \$5 million of that added to Forest Development. Currently, about one-sixth of the Indian trust commercial forest needs replanting or thinning. In FY 2005, the BIA Forest Development budget treated 58,000 acres. By FY 2009, that annual goal was cut back by more than 10% to 52,000 acres. A \$5 million increase for FY 2012 will enable an additional 30,000 acres to be treated, increase Indian timber harvest and value, improve forest health, contribute to carbon sequestration, create much needed employment, and produce woody biomass to advance the Nation's renewable energy initiatives.

**4) Provide \$5 million for BIA ESA (BIA Natural Resources Management).**

In FY 1995, \$1.83 million was provided for Northern Spotted Owl (NSO) and marbled murrelet management activities on tribal lands, and by FY 2002, the BIA ESA program was national and funded at \$3 million. For FY 2012, BIA's ESA national program is requested at only \$1.247 million. The ITC asks that BIA ESA be increased to \$5 million, based on the \$.09 per acre provided BLM for general ESA activities. Within that \$5 million, the ITC asks that \$2.4 million be designated for NSO and marbled murrelet, reflecting inflation on FY 1995's \$1.83 million. We further note the US Fish & Wildlife Service is now preparing a new NSO Revised Recovery Plan that could include all high quality habitat on tribal trust land. We object to using tribal trust lands to correct management failures on federal public lands, but are not certain the USFWS will take a similar view, and so face the prospect of even more NSO management.

**5) Provide at least \$17.5 million for tribal trust land participation in Cooperative Landscape Conservation (BIA Natural Resources Management).**

With DoI requesting \$175 million in FY 2012 for Cooperative Landscape Conservation (CLC) on the Department's 500 million acres, asking just \$200,000 for BIA's 52 million acres is grossly inequitable and entirely insufficient. Tribal government participation in CLC is both needed and being requested by others, including federal agencies, but no funds are provided. At 52 million acres, trust land is 10% of DoI's total land base. At least 10%, or \$17.5 million, should be provided for BIA and tribal participation in the CLC program. The federal trust responsibility for these lands should require at least equitable participation.

**6) Support the Conservation Law Enforcement Officer Program (BIA Public Safety).**

Mr. Chairman, trust forestland covers one third of all Indian trust land and is among the least patrolled land in the Lower 48 States. As a result, it is attractive for illegal activity, including not only marijuana grows, but also the illegal removal of a wide variety of often valuable forest products, such as timber, botanicals, limbs and boughs, small trees, berries, and fish and wildlife. Protection is needed to safeguard these products for the benefit of tribal members and the products' sustainable management. We welcome and support the \$1 million initiating this program.

**7) For DoI Wildland Fire Management: 1) Standardize DoI and USFS Wildland Fire funding and accounting, 2) Restore \$44.6 million for DoI hazard fuel reduction, and 3) Restore \$6.8 million for DoI Burned Area Rehabilitation.**

1) The ITC recommends that fire preparedness funding for the DoI FY 2012 budget be expanded to reflect comparative per acre investments to the USDA Forest Service, a comparable federal trust land manager. The ITC recommends that all federal fire cost accounting and business practices be standardized to more transparently reflect the true federal investment in fire management and suppression across all agencies.

2) The ITC also recommends the full restoration of \$44.6 million to DoI hazard fuel reduction (HFR) funds. These funds are essential to consistent long range management of trust resources and, as agreed to in the National Wildland Fire Cohesive Strategy, should not be limited to the Wildland Urban Interface. The U.S. has a fiduciary obligation to protect all our forest resources, not just those in the WUI. Indian people are intimately connected to the entire landscape and the values and resources it provides to sustain their livelihood. Restoration of HFR funds is also in keeping with the Cohesive Strategy calling for projects to be planned for landscape level treatments that cross federal, state, tribal and private jurisdictions. Consistent and sufficient HFR funding is critical to this cross boundary collaboration.

3) Finally, the ITC recommends restoration of \$6.8 million to the DoI Burned Area Rehabilitation fund. These funds are essential to restore and maintain healthy ecosystems that are fundamental to tribal welfare and are covered by the trust responsibility.

Mr. Chairman, Members of the Subcommittee, that concludes my testimony. Thank you.



## **COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

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**TESTIMONY OF**  
**The Honorable N. Kathryn Brigham, Secretary**  
**Columbia River Inter-Tribal Fish Commission**  
To the  
**Appropriations Subcommittee on Interior, Environment, and Related Agencies**  
**United States House of Representatives**  
Regarding the Bureau of Indian Affairs Fiscal Year 2012 Budget  
**May 4, 2011**

Mr. Chairman and members of the subcommittee, the Columbia River Inter-Tribal Fish Commission is pleased to share its view on the Department of Interior, Bureau of Indian Affairs' (BIA) FY2012 budget and has specifically identified two funding needs:

1) **\$7,712,000, an increase of \$3,139,000 above the President's Request, for Columbia River Fisheries Management under Other Recurring Programs, Wildlife and Parks, Rights Protection Implementation to meet the base program funding needs of the Commission and the fisheries programs of its member tribes, specifically, to implement federal court-ordered management obligations, including efforts for species listed under the Endangered Species Act, and;**

2) **\$4,800,000, an increase of \$694,000 above the President's Request, for U.S./Canada Pacific Salmon Treaty under the Other Recurring Programs, Wildlife and Parks, Rights Protection Implementation areas to achieve base program funding adequacy and to implement new obligations under the recent agreement adopted by the U.S. and Canada under the Treaty.**

The Columbia River Inter-Tribal Fish Commission (CRITFC) was founded in 1977 by the four Columbia River treaty tribes: Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, Confederated Tribes and Bands of the Yakama Nation, and Nez Perce Tribe. CRITFC provides coordination and technical assistance to these tribes in regional, national and international efforts to protect and restore our shared salmon resource and the habitat upon which it depends. The collective ancestral homeland of the four tribes covers nearly one-third of the entire Columbia River Basin in the United States.

In 1855, the U.S. entered into treaties with the four tribes<sup>1</sup> whereupon we ceded millions of acres of our homelands to the U.S. In return, the U.S. pledged to honor our ancestral

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<sup>1</sup> Treaty with the Yakama Tribe, June 9, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

rights, including the right to fish. Unfortunately, a perilous history brought the salmon resource to the edge of extinction with 12 salmon and steelhead populations in the Columbia Basin listed under the Endangered Species Act (ESA).

Today, the CRITFC tribes are leaders in fisheries restoration and management working with state, federal and private entities. CRITFC's member tribes are principals in the region's efforts to halt the decline of salmon, lamprey and sturgeon populations and rebuild them to levels that support ceremonial, subsistence and commercial harvests. To achieve these objectives, the tribes' actions emphasize 'gravel-to-gravel' management including supplementation of natural stocks, healthy watersheds and collaborative efforts.

The programs in this testimony are carried out pursuant to the Indian Self-Determination and Assistance Act. We have successfully secured other funds to support our efforts, including funds from the Bonneville Power Administration, the Pacific Coastal Salmon Recovery Fund, and the Southern Fund of the Pacific Salmon Treaty, to name a few. Our programs are integrated as much as possible with state and federal salmon management and restoration efforts.

**Columbia River Fisheries Management Program Needs under the Other Recurring Programs, Wildlife and Parks, Rights Protection Implementation:**

We are succeeding. The salmon, returning in greater numbers, tell us so. But along with success, management issues increase in complexity, requiring greater data collection and more sophisticated analyses. Funding shortfalls prohibit the achievement of tribal self-determination goals for fisheries management, ESA recovery efforts, protecting non-listed species, conservation enforcement and treaty fishing access site maintenance. Since FY2003, our purchasing power has decreased under the weight of inflation and rising operation costs. We are seeking an increase of \$3,232,000 over FY2011 for a new program base of \$7,712,000 for Columbia River Fisheries Management explained below:

**Enhance Tribal Base Programs and Meet Unfunded Program Needs:**

The BIA's Columbia River Fisheries Management line item is the base funding that supports the fishery program efforts of CRITFC and the four member tribes. Unlike state fish and game agencies, the tribes do not have access to Dingell-Johnson/Pittman-Robertson or Wallop-Breaux funding. The increase will be directed to support the core functions of the fisheries management programs of the Commission's member tribes.

In 2008 CRITFC and its member tribes successfully concluded lengthy negotiations resulting in three landmark agreements: 1) the Columbia Basin Fish Accords<sup>2</sup> with federal action agencies overseeing the federal hydro system in the Columbia Basin, 2) a Ten-Year Fisheries Management Plan with federal, tribal and state parties under *U.S. v OR*, and 3) a new Chinook Chapter of the Pacific Salmon Treaty.<sup>3</sup> These agreements

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<sup>2</sup> The Nez Perce Tribe is not a Columbia Basin Fish Accord signatory

<sup>3</sup> See "Salmon Win A Triple Crown" at [http://www.critfc.org/text/wana\\_w09.pdf](http://www.critfc.org/text/wana_w09.pdf)

establish regional and international commitments on harvest and fish production efforts, commitments to critical investments in habitat restoration, and resolving contentious issues by seeking balance of the many demands within the Columbia River basin. While through these agreements the Tribes have committed to substantial on-the-ground projects with some additional resources from the Bonneville Power Administration, the overall management responsibilities of the tribal programs have grown exponentially without commensurate increases in BIA base funding capacity. For example, the tribes' leadership in addressing Pacific Lamprey declines is this species' best hope for survival and recovery. The Tribes are taking the lead in developing needed lamprey management plans. The tribes are also addressing unmet mitigation obligations, such as fish losses associated with the construction of the John Day and The Dalles dams.

Public safety continues to be a high priority for CRITFC and the four tribes. Tribal law enforcement infrastructure is a necessary component of fisheries management. Tribal infrastructure needs include additional conservation officers, tribal code improvements, courts and prosecutorial capacity increases, and modern detention facilities. CRITFC conservation officers are also the cornerstone of the search and rescue, and subsequently recovery efforts. In the popular and heavily used Columbia Gorge they provide the most continuous on-river presence for both the tribal and non-tribal community who depend on the river for commercial, cultural and recreational opportunities.

The Columbia River in-lieu and treaty fishing access sites were authorized by Congress to fulfill the promises beginning in 1939 when the U.S. Government built the first of four federal dams that flooded traditional fishing sites and villages on the lower Columbia River. After nearly 70 years, 29 sites are in place with two more sites slated for completion in 2011 thereby fulfilling the government's pledge. Eighteen of the sites are along the Washington shores of the Columbia River between Bonneville and McNary Dams. Tribal fishers from the four tribes use the sites to support their harvest for ceremonial, subsistence and commercial purposes. The sites vary with improvements including boat launches, fish drying sheds, fish cleaning stations, and camping facilities.

Compounding the challenges in implementing tribal fish management agreements are the impacts that climate change will have on the interior Columbia Basin and the tribe's treaty resources. The University of Washington Climate Impact Group predicts new challenges to salmon management due primarily to thermal effects and runoff timing changes. The CRITFC is being asked to develop mitigation and adaptation strategies on behalf of our member tribes. CRITFC and its member tribes currently have insufficient funds to do the technical work and allow policy-level participation in the co-management arena.

The funding provided through the BIA to support tribal fishery programs is crucial to the tribes' and CRITFC's ability to successfully carry out tribal rights protection, including these agreements, by providing sound technical, scientific and policy products to diverse public and private forums. Lost purchasing power through rising costs, inflation and lack of pay-cost adjustments to tribal funding has further challenged us to deliver these essential services.

**U.S./Canada Pacific Salmon Treaty under the Other Recurring Programs, Wildlife and Parks, Rights Protection Implementation:**

For tribal participants in the Pacific Salmon Treaty, the U.S. Section has identified a program need of \$4,800,000 for BIA.

The U.S. and Canada entered into the Pacific Salmon Treaty in 1985 to conserve and rebuild salmon stocks, provide for optimum production, and control salmon interceptions. The treaty established the Pacific Salmon Commission (PSC) as a forum to collaborate on intermingled salmon stocks. The U.S. Section of the PSC annually develops a coordinated budget for tribal, state and federal programs to ensure cost and program efficiencies. Congress increased funding in 2000 in order to implement the 1999 Agreement but funding has significantly eroded since then. In 2008, the U.S. and Canada adopted a new long term Treaty agreement after nearly three years of negotiations. Both parties agreed to significant new management research and monitoring activities to ensure the conservation and rebuilding of the shared salmon resource

The \$4,800,000 provides for direct tribal participation with the Commission, panels and technical committees. The funding enables the tribes to assist in Treaty implementation and facilitates management protecting trust resources. This funding maintains tribal resource assessment and research programs structured to fulfill required Treaty implementation activities. The FY 2012 recommended level for this program is an increase of \$680,000 over the FY 2011 enacted level. The recommendation follows the US. Section's recommendation, includes pay cost adjustments and brings the program back in line with previous levels of participation.

The tribal management programs provide needed beneficial and technical support to the U.S. Section. The Pacific Salmon Commission relies heavily on the various technical committees established by the Treaty. The work of these Committees is integral to the task of implementing fishing regimes consistent with the Treaty and the goals of the Parties. Numerous tribal staff appointed to these committees and all of the tribal programs generate data and research to support their efforts. For example, indicator stock tagging and escapement monitoring provides key information for estimating the parties' annual harvest rates on individual stocks, evaluating impacts of management regimes established under the Treaty, and monitoring progress toward the Chinook rebuilding program started in 1984.

**In summary**, through combined efforts of the four tribes supported by a staff of experts, we are proven natural resource managers. Our activities benefit the region while also essential to the U.S. obligation under treaties, federal trust responsibility, federal statutes, and court orders. We ask for your continued support of our efforts. We are prepared to provide additional information you may require on the Department of the Interior's BIA budget.

CRITFC Staff Contact: Charles Hudson, (503) 731-1257, ([hudc@critfc.org](mailto:hudc@critfc.org))

STATEMENT OF CHERYLE A. KENNEDY, TRIBAL COUNCIL CHAIRWOMAN,  
CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

Chairman Simpson, Ranking Member Moran, Members of the Subcommittee, my name is Cheryle Kennedy and I am the Chairwoman of the Confederated Tribes of the Grand Ronde Community of Oregon.

Mr. Simpson, I had the pleasure of working with all of Idaho's Tribes during my tenure as Executive Director of the Northwest Portland Area Indian Health Board which represents health care issues of the 43 federally recognized Tribes in Washington, Oregon, and Idaho. I also have the honor of serving on Secretary Sebelius' Secretary's Tribal Advisory Committee (STAC), the first tribal advisory committee established to advise the Secretary in the history of the Department of Health and Human Services.

First, I want to thank the Subcommittee for its leadership in addressing the many issues facing Indian Country.

My testimony today is shaped in part by a 30-year career as a health administrator working to improve the access and quality of healthcare to Native people and, more importantly, as someone who personally experienced the immediate injustices of federal termination of her tribe and has lived long enough to witness and chronicle its long-term consequences.

I would like to focus my testimony today on a topic of great importance to me, my tribe and other Contract Health Dependent Area Tribes. Specifically, changing the 2001 CHS Allocation Workgroup formula. This formula is used to allocate increases in Contract Health Service (CHS) funding to tribes. However, it does not fairly account for the unique situation of CHS Dependent tribes like Grand Ronde.

Health care to eligible beneficiaries is provided at the Grand Ronde Health and Wellness Center, a health care facility built, financed, and owned by the tribe on the Grand Ronde Reservation. Like most tribes, we have struggled to achieve and maintain a high level of health care service, given chronic under-funding, especially of CHS funds.

The CHS budget is the most important budget item for the Grand Ronde Health and Wellness Center. The Portland Area has no IHS hospitals or specialty care facilities. This is significant because these facilities can provide inpatient and specialty care services that outpatient clinics cannot. Unlike hospital-based areas, which can provide these services directly, Grand Ronde and other Portland Area tribes must purchase all specialty and inpatient care services with CHS resources. Moreover, hospital-based Areas can bill Medicare, Medicaid, and other third-party payors thereby preserving critical CHS funds. CHS Dependent Areas cannot generate third party reimbursements at the same level as hospital-based areas, thus their need for CHS funds is higher. Yet neither the annual distribution of CHS funds nor the 2001 CHS Allocation Workgroup formula give sufficient weight to this fundamental difference.

The funding disparity impacts the ability of tribes such as Grand Ronde to offer services such as radiology, specialty diagnostics, laboratory, and pharmacy services which tend to be associated

with hospital-based facilities. Due to the lack of facilities to deliver services, Grand Ronde has no choice but to purchase specialty and inpatient care from the private sector using CHS funds. It is important to understand that the CHS program does not function as an insurance program with a guaranteed benefit package. When CHS funding is depleted, CHS payments are not authorized. As the former Executive Director of the Northwest Portland Area Indian Health Board, I am keenly aware of the impact the 2001 CHS Workgroup formula has had on the ability of tribes to provide quality health care to their members. The formula is simply not fair.

I appreciate Dr. Roubideaux's outreach to Indian Country to solicit recommendations on how best to improve the efficiency and effectiveness of the CHS program and acknowledge that changes to the CHS distribution formula may be warranted.

The Portland Area has been working for many years to address the inadequacies the distribution methodology used by IHS to allocate CHS resources has had on CHS Dependent Areas. Last year, the Northwest Portland Area Indian Health Board held a listening session with Dr. Roubideaux to discuss recommended programmatic and CHS distribution formula changes specific to CHS Dependent Area Tribes. It is the position of the Portland Tribes that the proposed formula developed by the 2001 CHS Workgroup has not been officially adopted by the IHS and that the Agency should continue to consult with Tribes over its continued use. It was also recommended that Dr. Roubideaux convene a new CHS Workgroup to revisit the 2001 formula and consider the following: (1) Alternate resources (Medicaid, Medicare, Private Insurance, and changes under health reform) when making CHS distributions, (2) CHS Dependency, (3) use of actual medical inflation when allocating CHS funding, (4) the unique circumstances of CHS Dependent Areas must be addressed by IHS and Congress in national and internal health reform, otherwise these systems will continue to be plagued with chronic underfunding and may not be able to capitalize on health care coverage expansions that will come with health reform, and (5) to address the lack of access to the Catastrophic Health Emergency Fund (CHEF), Congress should consider establishing an intermediate risk pool for CHS Dependent Areas.

In sum, the 2001 Workgroup formula does not meet the test of fairness in the way it was developed or the results it produces. Grand Ronde along with The Northwest Portland Area Indian Health Board is ready, willing, and able to work on a new formula that will meet the needs of all Tribes.

In addition to the recommended changes in the 2001 CHS Allocation Formula, I strongly support the IHS Budget Formulation Workgroup requests for a \$118 million increase to be provided for Contract Health Services. Considering the estimated CHS program needs exceeds \$1 billion, the requested increase would greatly assist the many Indian people without access to key medical services. I support the Workgroup's request for an increase of \$145 million to fully fund Contract Support Costs (CSC) in FY2012. The tribal self-determination and self-governance initiatives have been widely recognized as the single greatest contributor to improved health care in American Indian and Alaska Native communities. Successful operation of Tribal health care systems depends on CSC funding being available to cover fixed costs.

When Grand Ronde took over the delivery of healthcare services, our goal was simple: to provide the best possible health care to our people. We wanted to provide a continuum of care to our patients that would include as many possible health services in one location as possible so that the care provided by physicians who are providers could be integrated and coordinated. The challenge Grand Ronde has faced in providing health services to its members is an illustration of the impact that CHS underfunding, IHS under-funding and the lack of fairness of the distribution formula has on tribal health programs and tribal sovereignty.

Before I conclude my testimony, I would like to add my voice to those advocating for increased funding to address the law enforcement, infrastructure, and education needs of Indian Country.

There are huge gaps between tribes' abilities to fund law enforcement and their law enforcement needs. Grand Ronde is responding to community demands for police services by taking steps to establish its own Police Department. Department start-up cost are high, but so is the cost of fear for tribal members living in rural areas poorly served by county sheriffs, even where tribal-county agreements for sheriff patrols in tribal communities are in place.

Funding needs are especially acute for restored tribes such as Grand Ronde. During the 1960s and 1970s, the federal government provided tribes more training, involvement, and influence in the process of managing federal funds through, for example, Tribal Priority Allocations for law enforcement, social services, adult vocational training, and natural resources management. As Grand Ronde was not restored until 1983, the Tribe was unable to participate in this federal investment in Indian Country. The Tribe is playing catch-up from the years its community was neglected following termination in 1954. Serious efforts must be made to provide restored tribes with direct funding to assist them in developing fundamental public safety resources and infrastructure in their communities. Federal funds intended for tribes are often sent first to the states, which may then distribute these funds to tribal governments. This is inefficient. Funds for tribal governments should go directly to them.

As a mother and grandmother, as well as the Tribal Chairwoman, I implore Congress to continue funding for education programs serving Native students, including funding for the Chemawa Indian School. Education is a fundamental component of the federal trust responsibility. The education we provide our children must keep pace with the rapid pace of technological change.

Your attentions to the outlined concerns and requests are greatly appreciated.