

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES**

**TESTIMONY OF BROOKLYN D. BAPTISTE
CHAIRMAN, NEZ PERCE TRIBAL EXECUTIVE COMMITTEE**

MARCH 27, 2012 PUBLIC WITNESS HEARINGS ON NATIVE AMERICAN ISSUES

Honorable Chairman and members of the Committee, as Chairman of the Nez Perce Tribal Executive Committee, I would like to thank you for the opportunity to provide testimony on behalf of the Nez Perce Tribe to this Committee as it evaluates and prioritizes the spending needs of the United States regarding IHS, BIA, EPA, the Forest Service and the Fish and Wildlife Service. I would like to give special thanks to Chairman Mike Simpson from our state of Idaho.

As with any government, the Nez Perce Tribe does a wide array of work and provides a multitude of services to the tribal membership as well as the community at large. Congressman Simpson has seen in person the variety and the quality of the work done by the Tribe. The Nez Perce Tribe has a health clinic with a satellite office, a tribal police force with 16 officers, a social services department, a comprehensive natural resource program that does work in forestry, wildlife management, land services and land management, habitat restoration, air quality and smoke management, water quality and sewer service, and one of the largest fisheries departments of any tribe in the nation working on recovery of listed species under the Endangered Species Act. The Nez Perce Tribe conducts its extensive governmental functions and obligations through a comprehensive administrative framework, which is necessary for a sovereign nation that oversees and protects the treaty rights of the Nez Perce People in addition to providing the day to day governmental services to its members and the surrounding communities. The Nez Perce Tribe has long been a proponent of self determination for tribes and believes its primary obligation is to protect the treaty-reserved rights of the Nez Perce Tribe and its members. All of the work of the Tribe is guided by this principle. As a result, the Tribe works extensively with many federal agencies and proper funding for those agencies and their work with, for and through Tribes is of vital importance.

Indian Health Services

The Nez Perce Tribe was pleased to see President Obama's budget provided for increased spending for Indian Health Services. The request for \$4.422 Billion is an increase of \$115.9 million over the FY12 enacted level but more is needed. The Tribe's shortfall for FY 2011 for CSC was \$859,860.54. Proper funding for the operations of the clinic is imperative. The Nez Perce Tribe currently operates one health care clinic on the Nez Perce Reservation, Nimiipuu Health, with the main clinic in Lapwai, Idaho and a satellite facility 65 miles away in Kamiah, Idaho. Nimiipuu Health provided service to 3,870 patients in FY 2011. These 3,870 patients represented 79,573 visits, which included pharmacy and laboratory visits in addition to medical provider visits. Our expenditure total for FY2011 was \$12,555,959. Our Contract Health Services (CHS) cost for outpatient services for FY2011 was \$3,674,368. In this fiscal year for the four months ended January 31, 2012, our expenditures totaled \$ 4,989,836. Annualized for

the full twelve months this will result in a cost of \$14,969,508. Our CHS cost at the end of January was \$2,118,537. When annualized, this amount will result in a total expenditure of \$6,355,611. Our revenue from IHS for 2011 was \$10,082,221 and is projected for FY 012 at \$9,873,494.

In 2011 the Tribe expended \$2,626,164 of third party billings collected in 2011. If expenditures continue as projected based on the first four months of FY2012, the Tribe will have to collect in third party billings \$5,096,014. This will require approximately 57% more collections in third party revenue than is currently budgeted and anticipated in FY2012. The Tribe has been in priority one status for our CHS patients for nine months of FY 2011 and for the first four months of FY2012. Even in this priority one status we are already 32% over expended in FY 2012 with six identified Contract Health Emergency cases being processed for reimbursement through the CHEF funds. Priority one cases include only those circumstances where loss of life or limb will occur without treatment. All other referrals for outside treatments are placed on a deferred services list. At the end of FY2011, our deferred list totaled \$516,817. At the beginning of FY2012, the patients on this deferred list were re-evaluated by the medical providers and either received treatment based on the condition reaching priority one status, remained on the deferred services list or denied services based on their condition at that time. Currently our deferred list totals \$209,998 after only four months of referrals. Any shortfall in funding creates a trickle-down effect in emergency and preventative patient care.

Bureau of Indian Affairs

For the FY11 budget proposal, the BIA proposed several spending recommendations for improving trust land management that were supported by the Tribe. The Nez Perce Tribe entered into an agreement with the United States in 2005 known as the Snake River Basin Water Rights Settlement Act of 2004 (Title X of Division J of P.L.108-447, 118 Stat. 3431, et seq.). A component of the agreement was the transfer of approximately 11,000 acres of land from the Bureau of Land Management to the Tribe. The lands were supposed to be surveyed as part of the transfer. Full funding for those surveys has not been made to this date. The FY11 budget request called for \$695,000 for that fiscal year to begin that process. Although that amount would not cover the full cost of the surveys, it would allow the process to begin. The Tribe supports a renewal of that appropriation request in the FY13 budget that was not funded during the past several budget cycles.

The Tribe requests more emphasis be placed on funding for contract support costs through the BIA and that it be funded fully. The Nez Perce Reservation covers 1200 square miles and covers five counties and has a mixture of tribal and non-tribal residents. Currently, the Nez Perce Tribe contributes \$600,000 per year to cover the shortfall in BIA funding for the Tribe's law enforcement. This funding comes from cigarette taxes levied by the Tribe.

The Tribe also relies on the BIA for funding for its work related to endangered species and protection of the Tribe's treaty resources including Chinook and steelhead salmon. The funding has also been used to supplement the research efforts of the Tribe relative to Big Horn Sheep. The BIA Endangered Species Program provides tribes with the technical and financial assistance

to protect endangered species on trust lands but funding of this program has declined significantly over the last 8 years.

In addition, the funding provided under the BIA Rights Protection fund is critical as it supports the exercise of off-reservation hunting and fishing for tribes like the Nez Perce. It is important to understand that this funding is not for equipment but is used for job creation. The Tribe has employed two new conservation officers and an additional biologist for our programs under the funding during the last several fiscal years. The Tribe has to cover and manage a large area in fisheries related activities from the Lostine River in Oregon to the South Fork of the Salmon River and a capable and adequate staff is vital to continue this work.

The Nez Perce Tribe utilizes the Pacific Coast Salmon Recovery Fund to rear 300,000 local stock coho smolts at Dworshak and Kooskia hatcheries in the Clearwater River Basin. We also truck an additional 550,000 coho smolts from a lower Columbia River hatchery (Eagle Creek Hatchery) up to the Clearwater for release. Based on PIT tag information, 15,000 coho adults from our Clearwater releases crossed Bonneville Dam in 2011 where they provided a fishery for tribal and non-tribal fisheries on the Columbia River. Over 5,000 swam on to cross Lower Granite Dam where they continued to provide a fishery, provide broodstock for the hatchery program and spawners in the wild. Continued appropriations for this fund will allow this successful work to continue. The Tribal Management and Development Program also needs increased funding. NCAI has recommended \$20 Million for base and programmatic funding. This program is critical for fish and wildlife management of the Tribe.

The Tribe supports the funding requests for the BIA Wildlife and Parks Tribal Priority Allocations. This funding is allowing important work to be done on fish recovery through hatchery operation and maintenance. As stated earlier, the Tribe has invested a large amount of its personnel and resources in the restoration and recovery of this important resource through its fisheries programs. The state of Idaho directly benefits from this work as well through its sports fisheries. These programs have been successful but more work needs to be done.

Fish and Wildlife Service and Forest Service

The Tribe relies heavily on funding sources within the Fish and Wildlife Service and the Forest Service. First, the Tribal Wildlife Grants account for a small pot of money that has resulted in huge returns from the Tribe's perspective. This competitive grant does not simply dole out funds for projects but awards grants based on the quality of the proposal. The Tribe has received funding from this grant four out of the last five years based on the quality of our research work on Big Horn Sheep. The Big Horn Sheep is a treaty resource of the Tribe that is declining rapidly within the Tribe's ceded territory. The funds from this program provide the resources to keep the research going. Funding for these grants was reduced to four million in the FY12 budget. The Tribe strongly urges this committee to increase this funding as it provides a large return in work for a small investment. It is also one of the few sources of funds tribes can tap into for wildlife research.

The Tribe also supports increased funding for the work of the Forest Service in the protection of treaty reserved resources of tribes. The Nez Perce Tribe reservation and its usual and

accustomed areas are rich in natural resources and encompass eight different national forests. The Tribe works closely with each forest administration to properly manage its resources on behalf of the Tribe. These range from protecting and properly managing the products of the forest to managing the vast wildlife in each one such as elk, deer, bighorn sheep and wolves. For example, the Payette Forest will need increased funding for monitoring over the next several years. Increased funding is necessary so that the Forest Service can meet these trust obligations and continue to work with tribes such as the Nez Perce on a government to government basis.

Similarly, the Tribe is looking for funding for solutions to help with its Bison hunt in the Gallatin National Forest near Yellowstone National Park. For the last 6 years, the Nez Perce Tribe has returned to the Gallatin to exercise its treaty right to harvest bison in that area. The treaty hunt has been successful and this year the Tribe harvested over 80 animals. However, disease transmission by the bison is a concern and therefore a ship and slaughter program used by the state of Montana to protect domestic livestock has the potential to endanger such treaty based hunts. More funding for work and research to assist in helping the Forest Service, the Fish and Wildlife Service and the National Park Service meet the treaty hunting rights of the Nez Perce Tribe and the Confederated Tribes of the Salish Kootenai is needed.

Environmental Protection Agency

The Nez Perce Tribe currently implements, on behalf of the Environmental Protection Agency, the Federal Air Rules for Reservations program (FARR). The program monitors air quality and regulates field burning throughout the Nez Perce Reservation. The Tribe is located in Region 10 of the EPA. The Tribe is currently dependent on several EPA sources for funding for the FARR. Continued funding is needed for Tribes to meet their air quality needs and operate programs under the delegation of the EPA. EPA consistently uses the Nez Perce Tribe's FARR Direct Implementation Tribal Cooperative Agreement (DITCA) program as a model of success but Region 10 is being forced to look for ways that the Nez Perce Tribe can reduce the cost of its FARR DITCA. The Nez Perce Tribe cannot cut its FARR DITCA budget without adversely impacting the Tribe's ability to protect the health and welfare of the 18,000 residents of the Nez Perce Reservation. The Nez Perce Tribe currently operates its entire FARR DITCA program for about the same cost per year as the State of Idaho operates solely an agricultural burning program, therefore, EPA gets a much bigger "bang for their buck" with the FARR DITCA program compared to the state program and is a program worthy of investment.

The Tribe was pleased to see that most tribal set asides received increased funding in FY12. Funding for these tribal programs is important. In addition to the air quality program, the Tribe is currently in facilitated discussions with the state of Idaho that are being funded through grants from the EPA. The facilitated discussions involve the Tribe adopting water quality standards to improve the water quality on the Nez Perce Reservation. The Tribe also relies heavily on contract support dollars for our water resource programs such as the storage tank remediation issues and watershed restoration. As you can see, the Nez Perce Tribe does a variety of work, sometimes instead of and sometimes on behalf of the United States but the Tribe still expects the U.S. to provide proper funding under its trust obligations.