



THE TOHONO O'ODHAM NATION OF ARIZONA
TESTIMONY OF THE HONORABLE NED NORRIS, JR., CHAIRMAN
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
February 11, 2020

Summary of Budget Requests

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

Good afternoon, Chairwoman McCollum, Ranking Member Joyce, and distinguished Members of the Subcommittee. My name is Ned Norris and I am the Chairman of the Tohono O'odham Nation, a federally recognized tribe with more than 34,000 members located in southern Arizona. The Nation's Reservation is one of the largest in the United States, encompassing more than 2.8 million acres. The Nation also shares a 62-mile border with Mexico, the second-longest shared international border of any Indian tribe in the United States.

Thank you for the opportunity to testify about the Nation's federal funding concerns. The Nation sincerely appreciates the Subcommittee's commitment to providing Indian Country with critically needed funding. My testimony focuses on the following funding priorities: funding and continued transfer authority language for road maintenance, funding to implement the Nation's 1982 water rights settlement, funding for public safety needs including law enforcement and border security, and funding for health care.

I. Roads Funding

The FY 2020 consolidated appropriations law (H.R. 1865) allocated \$36.1 million for the BIA Road Maintenance program, a \$0.3 million increase from the FY 2019 enacted level. This negligible increase is completely inadequate to address the overwhelming road maintenance and safety issues that plague Indian Country, including the Nation's reservation.

The BIA Road Maintenance Program is responsible for approximately 29,400 miles of roads in Indian Country, and it has been severely underfunded for many years. The National Congress of American Indians (NCAI) reports that in FY 2018 the Road Maintenance Program received

approximately \$30 million in funding while the deferred maintenance backlog rose dramatically to \$498 million.¹ For most tribal governments, federal funding is the primary or only funding source to repair and maintain reservation road systems. Funding for the BIA Road Maintenance Program must be increased dramatically to address the growing deferred maintenance backlog and ensure the safety of tribal members and others using these roads.

The Nation has hundreds of miles of damaged and poorly maintained roads. The Nation has the sixth highest total BIA road mileage in Indian country with 734.8 miles of BIA roads on its reservation. Maintaining the Reservation's vast road system is a significant challenge. Due to the shortfall in BIA funding, many of our roads are in extremely poor, and in many cases unsafe, condition. Our roads have sink holes, pot holes, broken and cracked pavement, and washed-out bridges, which often are left unaddressed, making the roads dangerous for our members. Throughout the monsoon season, flooding often completely washes out roads and makes them impassable, stranding our members, including children on school buses, preventing access for emergency vehicles and isolating communities. Some of our members have been killed by flooding while traveling on these roads. *The Nation requests that Congress provide at least \$50 million for the BIA Road Maintenance Program in FY 2021 to begin to address the huge BIA maintenance backlog.*

Transfer of funds from Customs and Border Protection (CBP) to BIA to repair the Nation's roads. The Nation also suffers additional damage to its roads from heavy use by CBP vehicles, as part of CBP's border security duties. BIA does not have adequate funding to repair these roads, and after years of attempting to reach an agreement between the Nation, CBP and BIA to repair this damage, CBP ultimately took the position that it could not spend CBP funds to repair BIA roads because BIA receives specific appropriations for that purpose. To address the problem, the FY 2018 appropriations legislation authorized CBP to transfer \$15 million to BIA to fix roads damaged by CBP vehicles on Indian reservations. Under that law, \$10 million was transferred from CBP to BIA for reconstruction of Route 21, one of the roads on the Nation's reservation most heavily used and damaged by CBP vehicles. Through a 638 contract, the Nation is currently in the process of repairing Route 21. Similar language allowing the transfer of CBP funds to BIA was included in the FY 2019 and FY 2020 funding laws, but no additional funding has been transferred from CBP to BIA under these provisions. CBP has indicated that it will not transfer additional funds to BIA for the repair of Indian reservation roads used and damaged by CBP unless it receives additional funding specifically for this purpose.

The Nation respectfully requests that language allowing BIA to accept funding transfers from CBP for reservation road repair again be included in the FY 2021 Interior appropriations bill. We also encourage members of this Subcommittee to work with members of the Subcommittee on Homeland Security to ensure that language allowing CBP to transfer funds to BIA is included in the FY 2021 Homeland Security appropriations bill and that additional appropriations are provided for this purpose. We thank the Committee for addressing this funding issue, which is critical for the safety of the Nation's members, as well as the safety of both federal and tribal law enforcement officers using these roads.

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

The Nation continues to have grave concerns about the United States' failure to meet its obligations to the Nation under the Southern Arizona Water Rights Settlement Act of 1982, P.L. 97-

¹ NCAI FY 2020 Budget Request at 126, available at <http://www.ncai.org/NCAI-FY20-BudgetReport-PREVIEW.pdf>.

293 (SAWRSA), as amended by the Arizona Water Rights Settlement Act, P.L. 108-451 (AWSA). A critical part of the congressional authorization to resolve this portion of the Nation's water claims is a commitment by the United States to provide replacement water to the Nation from the Central Arizona Project (CAP). A Cooperative Fund was formed to pay for the costs of the delivery of CAP water. But despite congressional authorization (including \$16 million under SAWRSA, an amount that was doubled under AWSA), the Department has failed to fully fund the Cooperative Fund to sufficiently address CAP delivery costs on a long-term basis. As a result, the Fund currently is being depleted at an unsustainable rate.

A long-term stable funding source for Indian water settlements. A long-term stable funding source for Indian water settlements is crucial to provide funding for those tribes seeking settlements, and to provide funding to tribes like the Nation that are facing significant implementation challenges with respect to existing water settlements. The Nation respectfully requests that Congress consider creating a long-term funding source for the implementation of Indian water settlements to provide tribes with fiscal certainty and ensure that each settlement is implemented in a timely manner.

III. Law Enforcement and Border Security

The FY 2020 consolidated appropriations law (H.R. 1865) contained \$434.3 for public safety and justice programs in Indian Country. This is a welcome increase of \$22.8 million over the FY 2019 enacted level, but a far greater increase is needed in FY 2021 to meet the public safety and justice needs of Indian Country.

The Nation faces extensive and unique law enforcement and public safety challenges, in part because of its shared border with Mexico. The location and size of the Nation's reservation create a multitude of law enforcement and border security issues. The Nation includes fourteen O'odham communities with approximately 2,000 members living in Mexico. The Tohono O'odham Police Department (TOPD) must police a huge geographic area, including many remote and isolated areas, including along the border. TOPD also faces challenges in communicating with state, local and federal law enforcement due to limited interoperability on the reservation.

Significant TOPD resources are dedicated to addressing border security needs -- more than a third of the limited TOPD budget is expended on border security. The Nation has longstanding working relationships with CBP and other federal law enforcement agencies. The Nation spends more than \$3 million in tribal revenues annually to help meet the United States' border security responsibilities. But despite the time and resources we devote to working with CBP and other federal agencies, federal funding for border security-related law enforcement on the Nation's reservation is extremely limited. For example, on average TOPD investigates more than 75 immigrant deaths per year, and provides funding for autopsies at a cost of \$2,600 per autopsy, plus supplies and detective investigative hours, with no assistance from CBP. The Nation also absorbs all costs to reclaim damage to its natural resources, including the removal of vehicles used and abandoned by smugglers and the control of wildland fires attributed to cross-border illegal activity.

Current funding is completely inadequate to meet the public safety and justice needs of Indian Country. A 2016 BIA report to Congress concluded that, to provide a minimum level of public safety services to all federally recognized tribes, Congress would need to appropriate \$1 billion for Law Enforcement Programs; \$222.8 million for existing Detention Centers, and \$1 billion for Tribal Courts.²

² BIA Office of Justice Services, Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country (Aug. 16, 2016).

Obviously the funding available is nowhere near this estimated need. Particularly in remote areas, tribal officers are the first and in many cases the only responders to crimes on tribal lands, but tribal police forces lack sufficient resources and are severely understaffed throughout Indian country. In FY 2018, TOPD Officers, Detectives and Rangers drove nearly 2.5 million miles and handled over 88,963 incidents. The current average mileage of the TOPD police fleet is over 250,000 miles per vehicle. Marijuana seizures have remained flat or declined through 2019, but in FY 2018 the TOPD-led NATIVE HIDTA Task Force seized 834.388 kilograms of methamphetamine, over 28 times more than in 2017. Seizures of hundreds of counterfeit Oxycodone pills continue to occur, and in 2019 the Nation experienced its first drug seizures of liquid THC smuggled from Mexico. In addition, the capacity of the Nation's correctional facility is totally inadequate to meet our public safety needs, and the Nation consistently is forced to house detainees in correctional facilities out of state. Federal funds to address these problems are extremely limited, and it takes years to advance on the BIA list to receive correctional facility funding.

The Nation strongly urges the Subcommittee to take steps to fully fund tribal law enforcement and detention centers. Specifically, we request that Congress implement a plan to fully fund tribal law enforcement and detention centers within the next five years by incrementally increasing funding each year, starting with a \$200 million increase in FY 2021.

IV. Health Care

The FY 2020 consolidated appropriations law (H.R. 1865) allocated \$259.3 million for Indian Health Care Facilities Construction, an increase of \$15.8 million from the FY 2019 enacted level. While we appreciate the funding increase, it still remains clearly inadequate. On average, Indian Health Service (IHS) facilities are over 40 years old, almost four times as old as most U.S. hospitals, which have an average age of 10.6 years.³

The Tohono O'odham Nation Hospital in Sells, Arizona is over fifty years old - one of the oldest IHS facilities. Due to its age and lack of updates, the Nation's Sells Hospital can handle only minor medical issues and is wholly inadequate to serve the Nation's needs. The Sells Replacement Hospital has been on the IHS facilities construction list for more than twenty years. In FY 2018, the Nation finally received a small portion of the funding (\$750,000) needed to begin work on a replacement hospital, and in FY 2019 we received \$15 million, but no money has been allocated for FY 2020, and it will be several years before construction of a new hospital will be complete. The continued failure to provide adequate funding for IHS facilities construction is a breach of the federal trust responsibility. Congress must do better in providing funding for Indian health care facilities, which are urgently needed to provide health care to tribal members. We ask that the Committee provide a substantial increase in funding for IHS Facilities construction.

We also ask that the Committee provide advanced appropriations for IHS in FY 2021. Advanced appropriations will prevent the uncertainty in funding levels that results from the continued failure to enact appropriations in a timely manner each fiscal year, and will ensure that funding shortfalls and the loss of critical health services for tribal members do not occur in the event of future government shutdowns.

³ NCAI FY 2020 Budget Request at 67.