

**FY2013 Appropriations Testimony of Chairman Leonard Masten, the Hoopa Valley Tribe  
Before the U.S. House of Representatives Subcommittee on  
Interior, Environment and Related Agencies Appropriations  
March 19, 2012**

The Hoopa Valley Indian Reservation is the largest reservation in California. It covers approximately 144 square miles. The Hoopa Valley Tribe currently has 3,006 tribal members. The Tribe was one of the first self-governance tribes in the nation. Through self-governance we have been able to leverage federal dollars to fund our programs to the benefit of our members, residents and community. However, we face some important funding needs which we highlight below for the Subcommittee's attention.

K'ima:w Medical Center Ambulance Program Operations: \$470,516.

We were the first in California to enter into a health care services compact with the Indian Health Service (IHS) through which we operate the K'ima:w Medical Center (KMC), a Joint Commission accredited ambulatory clinic which offers a comprehensive set of medical, dental, and health services. Significantly, the KMC operates *the only* ambulance service in the region, providing basic and advanced life support emergency services both on-reservation and off-reservation to Indian and non-Indian people in northeastern Humboldt County and portions of Trinity and Siskiyou Counties. Our ambulance program is critical for the region. The nearest hospital is about 80 miles away and travel time can take up to 2.5 hours over remote mountain roads. The care we provide en route can sometimes be the difference between life and death. In 2011, our ambulance responded to 980 emergency calls

Unfortunately, the average number of runs that are reimbursed by 3rd party insurances do not generate enough revenue to support the overall operational costs, which primarily is attributed to the necessary standby time. Our ambulance program in 2011 had a budget shortfall of \$470,516. The IHS subsidizes the cost of leasing ambulances, but, unfortunately, it has told us that it does not provide operational costs to any of the IHS affiliated EMS programs.

To ensure the availability of critical, lifesaving tribal ambulance services like ours, we ask that adequate funding for operations be made available to tribal ambulance programs.

Law Enforcement: \$1.5 million

The Tribe needs funding to carry out law enforcement functions under Sections 221-222 of Pub. L. 111-211, the Tribal Law and Order Act ("TLOA"). The TLOA authorizes the United States to reassume concurrent criminal jurisdiction within our Reservation and authorizes the Attorney General to assist deputization agreements to reduce crime. However, little federal assistance has been provided.

The Bureau of Indian Affairs (BIA) currently provides only enough to cover hiring and staffing 1-2 officers. Currently, the Tribe funds 10 officers, who are routinely the first and sometimes the only responders to calls on our Reservation. They are not enough to meet the public safety needs of our Reservation, which is the largest in California and, unfortunately, is faced with significant and unique community policing challenges due to rampant illegal drug trafficking in the area.

Our Tribal Police Department is one of the first and only in the State of California to have a Joint Powers Agreement/MOU and a Deputization Agreement with the neighboring county, which is immensely important for cooperation purposes. However, the County provides no funds for law enforcement services; it merely deputizes our tribal officers who must rely entirely on the Tribe's resources. Our Police Department currently needs \$1.5 million in funding for operation and salaries to ensure adequate law enforcement coverage on our Reservation. Congress must act to help us fulfill the promises of the TLOA.

#### Klamath Basin Water and Fisheries Funding Must Not Be Diverted Into Unauthorized Projects.

In 2010 several Klamath Basin entities signed agreements, including the so-called Klamath Basin Restoration Agreement (KBRA). No federal agency signed the KBRA. Nevertheless, the Interior Department's FY 2012 enacted budget cut Real Estate Services to implement it. Page 1063 of the conference report to accompany H.R. 2055 described \$11 million as "for continued implementation of the Klamath Basin Restoration Agreement." The bill regarding the KBRA, H.R. 3398, would terminate the federal trust responsibility to protect our water and fishing rights. That legislation should not be enacted. Congress should not fund Indian termination activities out of monies needed to provide real estate services to Indians.

#### Wildland Fire Suppression: \$531,689.

The Tribe compacted the entire Wildland Fire Program in 2001, which includes Preparedness, Suppression, Rehabilitation (BARE), Fire Prevention and Fuels Management. We were the first Tribe in the nation to compact or contract a fire program from the BIA, and were instrumental in establishing the use of escrow accounts to advance funding for Fire Suppression costs incurred by the Tribe. The escrow account allows already congressionally-appropriated funding to be transferred and held in a Tribal account for the operation costs of our Fire Suppression program. Initially, the BIA funded the Tribe's escrow account at \$100,000. In 2004, it increased the amount to \$175,000.00. Unfortunately, the escrow account balance has never been adequate to meet the needs of operating our Fire Suppression program. The Tribe has ended up covering the federal government's obligation to provide adequate funding for the program. While the federal government eventually reimburses the Tribe (sometimes a year or more later), the process has caused grave financial problems for the Tribe.

The Tribe has pleaded with the BIA year after year to increase the Fire Suppression escrow account to alleviate the financial burden on the Tribe. The ten year average Fire Suppression costs for the Hoopa program is \$531,689. The Tribe has routinely had to bear Fire Suppression costs out of its general fund of \$356,689 or more (\$1,044,031) above the BIA funded amount of \$175,000. We have charts that exhibit the yearly amounts the Tribe covers, which we will provide for the record. The Tribe simply cannot afford to continue to support the federal government's obligation as we do not have the financial reserves available due to the depressed economy and depressed price of timber from which we derive governmental revenues. The solution to this dilemma is to use the method Congress uses to allocate funding to its own agencies for fire suppression, which is based on the **"ten year average cost for suppression of fire."** The ten year average that Congress uses to allocate funds includes the costs incurred by the Hoopa Tribe. With this, the funding we are asking for is routinely included within the annual

allocation already. Notably, the Fire Suppression costs we have identified and are requesting are those the Tribe has paid out and not the total actual costs for suppressing all fires.

Waste Treatment: \$26,938,980.

Sanitary system improvements on our Reservation have not kept pace with water supply improvements. Our Reservation is home to roughly 3000 people living in approximately 864 to 900 single-family dwellings. All homes and businesses are served by individual-on-site septic systems, creating a congestive situation and concerns about the number of leaking aged tanks which likely are introducing nutrients, toxic chemicals and pathogens to various sources of drinking water.

We have systems that were built without adequate percolating capacity for the soil conditions of certain areas of our valley floor. An excessive number of leach fields are failing due to age and poor soil content. Further, roots entering leach fields are a major factor for failing tanks. Most wells in the Valley have been discontinued for drinking water due to contamination. Also, many of the septic tank systems have failed to meet public health standards and our septage disposal area is not in compliance with EPA Standards set forth in 40 CFR 503, causing mandates to resolve our valley-wide waste treatment needs. Given the health hazard facing our entire community, our waste treatment priority can no longer be placed on the back burner.

Unfortunately, we do not have adequate annual funding to operate, maintain and replace existing septic systems. Further, to spend funds on new septic systems is wasteful in light of our true need to build a community waste treatment facility. We are prepared to construct a community waste treatment facility in phases. Our proposed phasing would allow us to use the infrastructure as it is constructed. Our valley is made up of eight (8) fields: Norton, Mesket, Hosler, Agency, Campbell, Sockish, Chenone and Matilton, and the phasing is based upon these fields with the first phase being the most expensive: Phase I (\$12,172,980), Phase 2 (\$7,809,420), and Build-out (\$6,956,580) for a total need of \$26,938,980.

Cobell Settlement Tribal Support: \$527,000.

While the DOI Cobell Land Consolidation Plan is a well-meaning first step in tackling the problem of fractionation of Indian land, without further action by Tribes and the federal government fractionation will continue. The Plan largely focuses on Midwest areas, but DOI must concentrate on areas like Hoopa as well. The Tribe has studied these issues for several years and has had discussions with various federal officials, administrative law judges and staff, individual Indians, and tribal government representatives that have resulted in the development of a comprehensive estate management plan. Furthermore, the Plan lacks an understanding that while today tribes contract and compact to administer at least half of the trust programs that were historically carried out by the BIA, it does not include funding and staffing needs of tribal governments in its implementation. To correct this oversight, the Tribe requests that \$527,000 be appropriated for the costs of staff and to support Real Estate and Trust Records Management activities needed to implement the Cobell Settlement.

The Cobell Settlement is further flawed because it does not address how fractionating lands problems will be prevented in the future. The Tribe's concern is that unless the Plan includes pro-active ways to prevent the perpetual fractionalizing of land, the same problems will continue

to be a problem in perpetuity. To correct this oversight, the Tribe requests that the Committee direct the Department of the Interior to work with tribes to design pilot projects that will prevent fractionated lands problems from continuing. The framework for such pilot projects includes: (1) the proactive development of tribal probate and land use codes; (2) entering into joint enforcement agreements with the Secretary of the Interior for enforcement of the tribal and federal components of such plans; and (3) designing ways for the DOI Office of Hearings and Appeals to work with tribes to harmonize the activities of the Indian Probate Judges with tribal and federal probate procedures and local land use plans. We have additional information on how such a plan can be designed and would be happy to present it for the record. We further request that the Committee direct the Department of the Interior to report to the Committee on progress on this effort within 180 days.

Broadband: \$15 million.

The Tribe has an immediate need for the installation of a broadband optical-fiber based network to support the residential, governmental, and commercial development of our tribal community. Whether it is for video conferencing to allow participation in federal programs and government-to-government exchange, telemedicine for monitoring of elders and the disabled and to allow access to advanced medical diagnostic and referral services off-Reservation, or for private-sector commercial development in general for our Reservation, fiber-based broadband Internet access is the key enabling technology for these essential activities.

To build a middle-mile and last mile optical fiber-based system connecting from U.S. Hwy 36, along U.S. Hwy 299 through Willow Creek, CA (also serving this community and the community of Salyer, CA) and up U.S. Hwy 96 to our Reservation, we would require \$15 million for infrastructure installation. Further, connection to the Yurok Tribe and the Karuk Tribe would require an additional \$5 million. The Tribe is working on grant funding opportunities, but significant matching funds would still be needed for such avenue to work.

Energy: \$25 million

The Tribe has developed a comprehensive strategic energy plan aimed at creating energy self-sufficiency for our Reservation. Micro-hydroelectric and solar power generation play key roles in developing critical infrastructure to support energy self-sufficiency. Both are viable technologies for use on the Reservation. Just as important, these are renewable natural resources readily available for the Tribe. They can provide great utility while being environmentally friendly and with modest ongoing operational and maintenance costs. When fully developed, these energy sources will remove the Tribe from dependence on externally generated electricity and fossil fuels for heat generation on the Reservation. The BIA Office of Indian Energy and Economic Development should be a partner in this endeavor.

Our current estimates to adapt and install micro-hydroelectric and solar power generation infrastructure on our Reservation would require \$25 million which would be used for equipment purchase and installation, supporting engineering, and initial operation start-up costs.

Conclusion

On behalf of the Hoopa Valley Tribe, we thank you for the opportunity to testify on these important issues.