

Testimony of William Nicholson

On behalf of the Intertribal Timber Council

Before the United States Senate Committee on Indian Affairs

Oversight/Legislative Hearing on "Improving Interagency Forest Management to Strengthen Tribal Capabilities for Responding to and Preventing Wildfires, and S. 3014, a bill to improve the management of Indian forest land, and for other purposes."

June 8, 2016

Good afternoon. Chairman Barrasso, Vice-Chairman Tester, and members of the Committee. My name is William Nicholson and I serve as the Secretary of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation. I also serve as the Colville Tribe's delegate to the Intertribal Timber Council. My testimony today is on behalf of the Intertribal Timber Council, but also reflects the Colville Tribe's experiences from the 2015 wildfire season.

Thank you for holding today's hearing on fire and forest management in Indian Country. It's been said that forests are the most important trust asset for tribes. They provide food, jobs, clean air and water, and are places of cultural and historical legacy. Indian forests also provide revenue to tribes for health care, education and other critical social services.

I also want to specifically thank Senator Daines for his work in introducing S.3014, which will provide tribes and federal agencies additional tools to restore forest health across the landscape.

To summarize my statement, tribes are deeply concerned about the failure to prioritize protection of tribal forests by federal agencies – at both policy and funding levels. I will address these failures at each level: before fire, during fires, and after them.

Indian forests are managed in a direct partnership between tribes and the US Interior Department, particularly its Bureau of Indian Affairs, but also its Office of Wildland Fire Management. We operate under federal law, specifically the National Indian Forest Resources Management Act ("NIFRMA") – the most modern federal statute governing forests. One unique element of NIFRMA is that it requires an independent scientific panel to review Indian forest management every ten years in a report to Congress. No other federal land manager is submitted to such a review. The panel, known as the Indian Forest Management Assessment Team ("IFMAT"), released its third report in 2013 and this committee has reviewed its findings.

The devastation of last summer's wildfires on several Indian reservations led the Intertribal Timber Council to seek additional review by the IFMAT team into wildfire issues. For this hearing, the ITC is releasing this report called "Wildfire on Indian Forests: A Trust Crisis" (hereinafter referred to as the IFMAT 2015 Fire Report), which plainly states that the Interior Department "is actively failing in its fiduciary obligations to tribal forests."

Part I: Before Wildfire

Generally speaking, Indian forests¹ are healthier and more productive than other federal forests. This is an active and ongoing choice by tribes because they directly rely on their forests for virtually all aspects of life: economic, ecological and cultural. Tribal people directly experience the consequences of the both proper and improper forest management. And they hold their leadership responsible for management decisions.

Tribes, more than anyone, understand the historic role of fire in our ecosystem. We are actively reversing unnatural conditions in the forest to reduce the threat of catastrophic fire. Tribes attack bug and disease outbreaks effectively and aggressively², thin timber stands and use prescribed burns to ready the landscape for the inevitability of wildfire. Tribes and BIA perform these treatments on a scale and speed not found on other federal lands – and we do it on a shoestring budget.

In fact, the BIA consistently receives one dollar for every three received by the Forest Service for forest management. It is disheartening that the Administration's proposed budget for Fiscal Year 2017 essentially flatlines BIA Forestry funding.

Chronic underfunding of BIA forestry has created a 440,000-acre thinning backlog. The IFMAT team estimates that tribes need to be treating five to ten times the amount of acres they have been treating annually over the last decade. This growing backlog will only exacerbate the costs of future wildfire suppression, or decrease the resilience and productivity of untreated acres that are lucky enough to survive to rotation age.

The bottom line here is that tribes have the "will" but not the "wallet" to perform proper forest management. This may be the inverse problem of our federal neighbors. The answer may lie in creating new partnerships between BIA, tribes and other federal land management agencies.

¹ A total of 334 reservations in 36 states, 18.6 million acres of forests and woodlands are held in trust by the United States and managed for the benefit of Indians.

² One such example is the response to budworm infestation on the Yakama Reservation. Timber sales were prioritized to treat areas that were most severely affected by the budworm. Between 1999 and 2003, silvicultural treatments were implemented on approximately 20,000 acres of budworm habitat per year – reducing infestation by 99%.

Congress began down this path 11 years ago with enactment of the Tribal Forest Protection Act – authorizing the Forest Service and BLM to work with tribes to reduce fire risk on federal lands adjacent to tribal forests. Tribes needed TFPA because even with effective treatments on our own lands, severe wildfires from adjacent federal lands inflict significant damage and economic cost to tribal forests.

Sadly, just a handful of TFPA projects have been implemented in over a decade. The risk to tribal forests from adjacent federal lands is worse than ever. For example, two of the Colville Tribe’s approved TFPA projects -- that our tribal staff worked for years to implement with our neighboring national forests – were burned in the 2015 fire season.

The Forest Service and ITC completed an analysis of how to improve TFPA effectiveness. For the past several years, we have made progress in bringing tribes and the Forest Service together for workshops to develop greater interest in using this authority. The ITC hopes this will eventually translate into more acres being treated.

However, the ITC also supports the provisions in Senator Daines’ legislation that would improve TFPA performance with timely and firm deadlines for agency response and implementation of TFPA projects. It also would allow tribes to “638” contract TFPA projects, which means tribes would have a greater role in both preparing and implementing TFPA projects to protect their own forests.

We also support the provision in Senator Daines’ bill that would authorize federal land to be treated as “Indian forest land” for forest restoration projects. This means that tribes and BIA could help the Forest Service treat more acres by using more flexible management practices found on Indian land.

From a historical perspective, the vast majority of federal forest land has only had two title holders: Indian Tribes and the U.S. government. Tribes have an intimate knowledge of these landscapes and retain legal and cultural interests in seeing them managed in the best possible manner.

Part II: During Wildfire

In addition to restoring forest resilience, Tribes also respond to fires more effectively. The average size of a fire on BIA-managed lands is three times smaller than on Forest Service land. Suppression costs, on a per-acre basis, are five times lower on BIA lands.

However, those costs are going up. The recent IFMAT 2015 Fire Report estimates the cost of fire suppression and rehabilitation on just five reservation fires in 2015 exceeds \$200 million. For perspective, that is more than three times³ the national budget for management of all Indian forests in the country.

³ FY 2016 BIA direct Forestry Program and Forestry Projects funding at \$51.9 million, plus FY 2015 BIA Self-Governance Forestry funding for Regional, Agency and Tribal functions of \$7.8 million, totaling \$59.7 million.

Aside from suppression costs, the IFMAT 2015 Fire Report shows the full cost of fires to tribal communities. For the 2015 fire season last summer, a national total of 539,000 tribal trust forest acres burned. On the five reservations examined in the IFMAT 2015 Fire Report, 338,110 forest acres burned, damaging 1.2 billion board feet of tribal trust timber. The timber value alone exceeds \$143 million, with an additional \$377 million in lost wages and services totaling over \$521 million. These losses impact tribes for decades into the future as we work to recover burned forests. Losses for the Colville Tribe included 800 million board feet of timber worth approximately \$96 million dollars.

Tribes are therefore deeply concerned that wildfire suppression priorities appear to be shifting away from tribal trust forests and toward other federal lands and interests. Indian forests are a critical trust asset and we will fight aggressively to protect them from fire. But we cannot do that if fire crews and air tankers are diverted to protect second homes at luxurious resorts or sage grouse habitat – which is already happening on the ground. We experienced this on the Colville Reservation in 2015 as suppression resources were directed to higher priority State and Forest Service fires while the Northstar fire grew to 220,000 acres.

The Interior Department is working on a new way to prioritize its wildfire funds. The so-called “Risk-Based Wildland Fire Management Model” is of great concern to tribes. The IFMAT 2015 Fire Report found that the values prioritized in this model are inherently biased against tribal trust land and the government’s fiduciary responsibility to protect them.

To date, the Interior Department has not conducted meaningful consultation with tribes on this significant policy change.

Part III: After Wildfire

Historically⁴, tribes have responded far faster than other federal agencies to recover economic value and begin the rehabilitation process. However, the federal response to last year’s historic fires in Indian Country suggests a growing failure to meet its basic trust responsibilities.

The IFMAT 2015 Fire Report documents how the Department of Interior is declining to recognize the historically severe 2015’s fires in Indian Country, hindering needed recovery and compounding the resource losses already inflicted on tribes.

The BIA estimated a need for \$55 million for post-fire recovery funding for Indian

⁴ The 2002 Rodeo-Chediski fire burned 467,000 acres of tribal and federal land, including half the timber on the Fort Apache Indian Reservation. While significant damage was done to tribal forests, the intensity of the fire was dramatically less on tribal land. Likewise, tribal salvage and reforestation began within months of the Rodeo-Chediski fire – removing up to 500,000 board feet of fire-killed timber a day. The Forest Service faced litigation that delayed salvage operations, and thus reducing the value and increasing the cost of the operation.

forests burned in 2015. Yet the Office of Wildland Fire only designated \$3.4 million of its \$19 million burned area recovery budget for Indian forests. To our knowledge, the Administration did not seek any additional funds from Congress for Indian forest recovery, while it did seek over \$700 million to repay the Forest Service for excess wildfire suppression costs. The Colville Tribe requested \$20 million for Burned Area Rehabilitation (BAR). The Northstar and Tunk Block fires burned 252,000 acres on the reservation last year. Along with this huge workload the Tribe is also tasked with continuing rehab efforts on 2014's Devils Elbow fire, which burned an additional 26,000 acres.

It adds insult to injury when tribes are denied recovery funding to address fires whose intensity was largely the result of insufficient federal resources. Also outrageous is that tribes, unlike other federal managers, have the desire and authority to quickly salvage burned trees and recover some value from these fires. This would support the dwindling forest products infrastructure that Congress is trying to preserve.

Despite the obstacles facing us, the Colville Tribe salvaged 60 million board feet of timber before seasonal restrictions halted logging in late February.

Conclusion

The IFMAT 2015 Fire Report contains many recommendations to the Interior Department and to Congress. Fundamental to all of them is acknowledgement of the trust responsibility for Indian forests. These are not just other trees managed by a different federal agency. These are homelands, sources of food and economic bases for Indian people across the country. They are the lands not taken by the federal government in treaties. But now they are being taken by fire. We ask for your help to change that.