

**Testimony of Phil Rigdon
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Before the Senate Committee on Indian Affairs
Oversight Hearing on “Wildfires and Forest Management:
Prevention is Preservation”
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I am Phil Rigdon, President of the Intertribal Timber Council (ITC) and Natural Resource Deputy Director for the Yakama Nation in South-central Washington State. On behalf of the ITC and its more than 60 member Tribes, I am here to share observations, concerns and recommendations over the management of our nation’s forests.

Tribal forests are critical to the ability to restore and sustain the health and productivity of ecosystems across the landscape. On a total of 334 reservations in 36 states, 18.6 million acres of forestland are held in trust by the United States and managed for the benefit of Indians. Pursuant to both tribal direction and federal law, tribal forests must be sustainably managed. Indian tribes work with the Bureau of Indian Affairs (BIA) and others to actively manage our forests and other resources within a holistic, integrated approach that strives to simultaneously sustain economic, ecological, and cultural values, the so-called “triple bottom line.” We operate modern, innovative and comprehensive natural resource programs premised on connectedness among the land, resources, and people. Our approach reflects the concept of reciprocity. If we care for the land, it will care for us. If we neglect our stewardship responsibilities, our lands and communities will suffer.

Our management approach is balanced. We protect our resources yet we understand that utilization is essential to enable us to meet the “triple bottom line.” We rely on our forests to provide employment and entrepreneurial opportunities and to generate income needed to care for the land and provide services for our communities.

Pursuant to federal statute (PL 101-630, Sec. 312), management of our forests is evaluated every ten years by an independent scientific panel. In 2013, an Indian Forest Management Assessment Team (IFMAT) completed the third independent evaluation of the status of Indian forests and forestry. The IFMAT III report shows that tribes are suffering from chronic underfunding and from challenges created by the loss of leadership and staffing, but still notes that tribal forests can serve as models of sustainable management that other federal agencies could follow.

Ecological Conditions: Tribal forests must meet the same goals as other federal lands, and are subject to both NEPA and the ESA. But we are able to meet, and often exceed those goals. We live with the consequences of our actions and are driven to meet the “triple bottom line.” If forests are overcut or devastated by wildfire, we lose revenue and jobs, the myriad ecological benefits we rely upon from our forests, and the traditional and cultural sustenance our forests have provided since time immemorial. The active management tribes employ to realize the “triple bottom line” is facilitated by three elements:

- The fact that our forests held in federal trust are for the use and benefit of our tribes

and their members and, within the scope of the trust, are subject to the direction of our tribal governments,

- The federal law guiding B.I.A. and tribal management of these trust forests, the National Indian Forest Resources Management Act of 1990 (PL 101-630, Title III), is the most recent and most flexible federal forest management statute, and
- The Indian Self-Determination Act (PL 93-638) has enabled tribes to assume direct and comprehensive management of our forests.

The Tribal forest of the Menominee Nation in Wisconsin is a clear display of the “triple bottom line.” As the Menominee Tribal Enterprises publication “The Forest Keepers” stated back in 1997, *“The 140 year history of forest resource use and management of the Menominee forest stands as a practical example of sustainable forestry – forestry that is ecologically viable, economically feasible, and socially desirable. This refers not only to forest products and social benefits, but also to wildlife, site productivity, and other ecosystem functions.”*

Individual tribal witnesses at today’s hearing will provide the Committee with other examples of how different tribes fulfill their stewardship obligations to protect the interests of the generations yet unborn.

While IFMAT III certainly identifies possible improvements, our demonstrated successes in innovative forest management offer striking examples that can and should be replicated across the landscape. The ITC offers the following administrative and legislative recommendations that will help all rural communities and federal forests; tribal and non-tribal.

IFMAT III Recommendations: The 2013 IFMAT report identified 68 administrative and legislative recommendations to improve forest management in Indian Country. Last fall, the ITC requested that the Interior Department appoint an IFMAT implementation team that includes the Assistant Secretary for Indian Affairs, the BIA Director and Chief Forester, and others. That team has recently been appointed by the Interior Department, and we are urging the Forest Service to designate a participant as well. We hope that the Team’s work can begin soon so that the analysis provided by the IFMAT report will not go stale or be abandoned to some dusty shelf.

Funding: One of the key findings of the IFMAT III report is that the chronic underfunding noted in the previous two IFMAT reports continues. On a per acre basis, tribes receive only about one-third the funding for forest and wildfire management as the Forest Service. Yet, with our holistic approach and a less constrained statutory and regulatory framework, we are able to do more with less, providing more flexible, varied and responsive management than other federal forest managers.

But while tribes are able to do more with less, we are being confronted with increasing, unprecedented challenges. Federal funding is now so insufficient and staffing levels so inadequate that the ability to fulfill fiduciary trust obligations and provide the economic and ecological benefits needed by our communities is very much in doubt.

IFMAT III’s finding that tribal forestry is funded at only one third the per acre amount for the Forest Service is based on total combined amounts provided tribal forests from both Interior’s

Wildland Fire program and B.I.A. funds for forest management. Within that combined total, BIA funding for tribal forest management programs has seriously eroded over the past twenty-three years. In terms of constant dollars, BIA per acre funding for forest land management declined by 22% between 1991 and 2011 and 31% between 2001 and 2011. We note, and appreciate, that BIA Forestry funding has increased \$5 million for FY 2014, but even with that increase, our funding is still 24% below 2001 purchasing power.

Because funding drives almost every aspect of forest management, its broad erosion affects virtually all aspects of the BIA program, including on-the-ground projects, technical support, staffing and leadership. For tribal forests that rely on comprehensive active management, this chronic under-funding is taking its toll. Using the Yakama Nation as an example, we typically have 55 BIA forestry positions to help manage our forest. Currently 33 of those are vacant because of budget shortfalls, an insufficient pool of available manpower, and BIA delays in filling vacancies. The Tribe has diverted funds from other Tribal functions to help mitigate that loss, but this reduces our capacity to provide sorely needed services to our communities and cannot be supported over the long-term as the BIA fails to meet its trust responsibility. Meanwhile, the lack of staff is preventing the Yakama Nation's harvest targets from being met and resulting in lost economic opportunities and jobs.

The rise of wildland fire and its associated funding in recent years has masked the growing deficiency of BIA forest management funding. For instance, the increase in wildland fire fuels management projects has helped, to a degree, to ameliorate the growing inadequacy of the BIA forest management thinning programs, as there is some overlap in the goals of these two functions. But these are only emergency patchwork efforts to stave off crisis, have very narrow application that fails to recognize interdependence of forest management and wildfire risk, and cannot be relied upon as a substitute for adequate funding of the base BIA Forestry program.

With BIA's Forestry funding deficiency steadily mounting over the past twenty-plus years, any source of additional support is welcome. The improvement in the Interior Department's wildland fire funding would be helpful for tribes, but our participation in the Interior Department's wildland fire funding has not been without problems.

As with funding for forest management generally, wildland fire funding for tribal forests has not been equitable. Using my own Reservation again as an example, the Yakama Nation is funded for fire preparedness at \$0.57 per acre per year while the adjacent Gifford-Pinchot National Forest is funded at \$1.18 per acre per year; and the Mount Hood National Forest at \$2.11; the Columbia Gorge National Scenic Area at \$2.83 – nearly five times what we receive at Yakama. This unconscionably disparate funding was a major factor in the Yakama Nation's recent loss of 20,000 acres of timber in the Mile Marker 28 Fire. When the fire just started, we could only send one piece of heavy equipment – a tanker truck – because our federal preparedness budget only supports one heavy equipment operator for our entire 1.1 million acre Reservation. While a bulldozer was also needed and available, we didn't have a person to operate that equipment. The fire got away and burned a total of 28,000 acres, including 20,000 acres of our trust forest resource.

Wildland fire and its budget play a significant role in the management and preservation of our

trust forest assets, upon which tribes rely for governmental revenues and community employment. Yet in the past, when the Office of Wildland Fire Management established funding distribution policies and formulas under its Hazard Fuels Priority Allocation System (HFPAS) that greatly disadvantaged the tribes, we were held off at arm's length from almost any real and meaningful consultation, despite our repeated objection. Today, we hope those contentious times are behind us.

The Interior Department's Office of Wildland Fire Management has recently been working diligently to try to increase tribal participation in the Department's wildland fire program. The ITC greatly appreciates this effort and hopes the Department will embrace the Administration's policy of meaningful tribal consultation to improve tribal engagement in the future.

Indian forests are experiencing challenges caused by ownership fragmentation and threats from wildfire, insects, disease, drought, and climate change, all of which are increasing every day. We are losing the management, harvesting, transportation, and processing infrastructure to provide the economic benefits needed to maintain healthy forests across the landscape. The inability of federal agencies to overcome gridlock and polarization that impedes management of their land is creating hazardous conditions for our forests and communities. Transaction costs of forest administration are increasing and fleeting economic opportunities are being lost as burdensome business models promulgated by bureaucracies like the Office of the Special Trustee are being imposed. Tribes are being increasingly called upon to provide funding for resource management at the expense of other pressing needs or by piecing together programs with soft money to try to address long-term issues. Our capacities are being strained to the breaking point. Our trust forest resources are at significant and increasing risk.

Wildfire & Recovery: Compared to other managers of federal forest land, tribes are better able to use scarce resources to prepare our forests for fire, recover after fire and ensure the continuity of forest resources for generations to come.

First, tribes are not hamstrung by cumbersome administrative procedures or the imposition of policies that fail to protect the resources and values that are vital to our communities. For example, we understand that there are circumstances in which a "let it burn" approach would increase the risk of catastrophic loss given the current overstocking and forest health conditions found across the landscape. Active management treatments are needed to address unnatural fuel conditions in the forest prior to letting fires serve their natural role across ecosystems.

When we experienced budworm infestation on the Yakama Reservation, we prioritized timber sales to treat areas that were most severely affected. Between 1999 and 2003, silvicultural treatments were implemented on approximately 20,000 acres of budworm habitat per year. The epidemic peaked in 2000 when the budworm defoliation affected trees on 206,000 acres. As a result of the Yakama Nation's silvicultural treatments, defoliation decreased dramatically. In 2002, only 1,207 acres showed signs of defoliation – a reduction of over 99%. Significant economic value was recovered from dead and dying trees while forest density was reduced, promoting forest health and resiliency. While such forest health treatments are common on tribal lands, it would be a challenge to find a similar example of speed, scope and effectiveness on neighboring federal forests.

I must also hasten to point out that today, on Yakama, we would not be able to conduct such an effective response. To move that volume of timber requires boots on the ground, and today the BIA forestry staff at Yakama has been so decimated that we are unable to meet our regular harvest target, let alone such an accelerated emergency removal of material. If we were confronted today with circumstances similar to those in the late 1990s, tens of thousands of acres of trust timber would likely be left to die and deteriorate on the stump, with serious consequences for increased insect infestations and fire, and unwanted impacts to our people and economy.

Tribes also respond to fires more effectively. While the comparison is not completely equivalent, the average size of a fire on BIA-managed lands is typically one-third the size of those on Forest Service land. Even after fires, BIA and tribes are able to respond far faster than other federal agencies to recover economic value and begin the rehabilitation process. The 2002 Rodeo-Chediski fire burned 467,000 acres of Tribal and federal land, including a significant amount of the timber on the Fort Apache Indian Reservation. While significant damage was done to the Tribal forest, the intensity of the fire was dramatically less on Tribal land as the result of the Tribe's stand density treatments and follow-up prescribed burning to maintain stand vigor and resiliency and minimize unwanted impacts to tribal resources.

Tribal forest management in that southwestern part of the country served as a model for active management, salvage and rehabilitation. Within months of the Rodeo-Chediski fire, the White Mountain Apache Tribe was removing up to 500,000 board feet of fire-killed timber a day and managed to salvage over a hundred million board feet of fire-damaged timber before value would be lost to decay and disease. In contrast, the Forest Service faced litigation that delayed salvage operations, reducing the value of salvaged timber and increasing the cost of the operation.

After the Rodeo-Chediski fire, the effectiveness of the White Mountain Apache's thinning program to actively treat the land was amply demonstrated as treated areas were proven to substantially reduce damage and risk to property. When the devastating Wallow Fire ravaged the area in 2011, the White Mountain Apache treatments were credited with stopping the westward advance of the fire onto the Reservation.

Tribal interests in healthy landscapes go beyond our reservation boundaries. Many tribes have off-reservation treaty and other reserved rights on our ceded lands that became National Forests. Catastrophic wildfire on these forests directly and negatively impact tribal reserved hunting, fishing, gathering and trapping rights and cultural resources like burial grounds and sacred sites. Moreover, wildfires that start on federal lands often burn onto tribal forests and damage watersheds that protect our water and soils. Even with effective treatments on our own lands, severe wildfires from adjacent federal lands inflict significant damage and economic cost to tribal forests.

Administrative Recommendations: Some of IFMAT III's administrative recommendations include:

- Addressing staffing shortfalls with recruitment, training and retention programs to

- provide well qualified staff and leadership for the management of our forest resources;
- Reducing or eliminating costly administrative requirements;
- Better defining BIA's trust standards for the management of tribal forests;
- Separating trust operations from oversight responsibilities;
- Investing in harvesting, transportation, and processing infrastructure to provide the means to sustain forest health, produce ecological benefits, and provide employment and other economic opportunities; and
- Allowing self-governance tribes to develop their own procedures for implementation of NEPA, replacing BIA NEPA manuals and handbooks.

Legislative Recommendations: The IFMAT report also contained recommendations for restoring and maintaining working forests on the landscape to sustain ecological functions and support rural economies, a key one of which is the "Anchor Forests" concept. Like other forest land owners, Indian tribes are being challenged by the impacts of disappearing management, harvesting, transportation, and processing infrastructure on their capacity to realize the economic benefits needed to maintain healthy forests and economies. Many of the sawmills that used to operate in Indian Country have been closed; only six tribal lumber mills are currently operating. The vast majority of tribal timber is sold to non-tribal mills. Particularly in places like Idaho, Oregon, Washington and Montana, tribal timber has helped fill the gap of a faltering federal timber program, but those areas too are experiencing an infrastructure decline. The ITC is exploring the concept of establishing Anchor Forests to provide a framework for collaboration across ownership boundaries to sustain healthy, productive forests on the landscape. Because tribes are committed to long-term forest retention and stewardship, coupled with proven management expertise, Indian forests are prime candidates to serve as anchors to achieve ecological and economic goals by preserving forest products infrastructure needed both for economic vitality and forest health treatments.

Currently, ITC is working with four Tribes, Forest Service Region 6 and other forest stakeholders to evaluate the feasibility of establishing Anchor Forests in three areas of central and eastern Washington State and Idaho. Elsewhere around the country, ITC has received expressions of interest in Anchor Forests from tribes in the Lakes States, the Midwest and the Southwest. We would like to work with Congress to create legislative direction for this concept.

Second, ITC recommends amending the Tribal Forest Protection Act (TFPA) or other authorities to expedite consideration, approval, and implementation of TFPA projects. In 2004, Congress passed the TFPA to provide tribes a means to propose projects on adjacent federal lands that would protect tribal rights, lands, and resources by reducing threats from wildfire, insects, and disease. This is similar to the "good neighbor authority" that Congress has provided states.

Unfortunately, the TFPA has not met expectations on the ground. Since 2004, only six TFPA projects have been effectively implemented on Forest Service lands. Others have languished for many years in the NEPA process with little hope of completion. We note the determined but so far fruitless efforts of the Tule River Tribe in California as an example. As depicted in the Appendix of the April 2013 ITC report "Fulfilling the Promise of the Tribal Forest Protection Act of 2004," the Tule River Tribe has struggled for 10 years since enactment of the TFPA to obtain a TFPA project to treat conditions that threaten sequoia forests on and near their

reservation. To date, their efforts have not been able to overcome a seemingly endless environmental review that is only exacerbated by frequent turnover of local Forest Service staff, including since 2005 five different Forest Supervisors, three different District Rangers, and four different lead planners.

With the ITC TFPA implementation report, which was done in collaboration with the Forest Service and BIA, we hope that a combination of administrative cooperation and legislative action to implement the report's recommendations can bring the TFPA to realize the potential Congress intended. We would like to explore TFPA improvements with you.

Third, ITC is working on a legislative idea whereby tribes could assume long term management authority – we refer to it as “stewardship assignments” - with federal land managers to address emergency conditions on Forest Service and BLM lands that threaten tribal forests or tribal rights on federal land such as hunting and protection of cultural resources. This concept, involving longer timeframes and more comprehensive tribal management than TFPA, would enable tribes to apply performance-based active and holistic “triple bottom line” forest management to imperiled and threatening nearby National Forest and BLM lands to restore long term health, productivity and sustainability. We note that legislation has been introduced in the House to turn Forest Service and BLM lands over to states for management (H.R. 3294, the State-Run Federal Lands Act).

Summary: We believe the nation would benefit greatly by looking to Indian forests as models of sustainability. We can help move the country forward to create a healthier, sustainable future for our forests and natural resources. We recommend that the Congress and the Administration work collaboratively with the ITC and timber tribes to implement the recommendations of IFMAT III.

We believe that tribal and other forestland owners are suffering from the lack of cohesive and comprehensive policy and programs for our nation's forestlands. A solid foundation for the future is needed now. We recommend that a high level task force or commission, with representation from Congress, the Administration, tribes, academia, private industry, small forest landowners, and others be appointed to develop practical recommendations to restore and maintain healthy, productive forests on the land. Such an effort would require effective leadership and an ambitious timeframe for completion. The need is urgent. The nation's forest circumstances are dire and getting worse with each passing day. Without a unifying actionable vision and the means to attain it, everyone will suffer the consequences of our nation's forests' continued deterioration. Somehow, we must collectively muster the will to care for the land with the respect and proper stewardship it needs so that it can care for us.

Either as part of a federal forest renewal effort or on a stand-alone basis, the full funding of the BIA trust Forestry program is essential. The degree of the BIA's current Forestry funding inadequacy is underscored by the Cobell-related tribal trust mismanagement lawsuits, the settlement of which cost the United States more than \$1 billion. Although the terms of each tribe's settlement are confidential, it is certain that mismanagement of tribal trust forest assets was a significant element in the lawsuits and their settlements. It is startling and deeply disturbing that the BIA's Forestry budget – the same insufficient budget that subjected the U.S. to many millions of dollars of liability – has failed to reflect a concerted attempt to meaningfully

address the very deficiencies that led to the necessity for these settlements.

While we again note with appreciation the recent \$5 million increase in BIA Forestry funding, IFMAT III finds that, to meet minimum requirements for management and protection of Indian forests, a \$100 million increase is needed for the BIA Forestry budget, including an additional 800 staff positions, and a separate \$12.7 million increase is needed for staff recruitment and training. The Administration's insistence on crippling natural resource budgets can only generate new management insufficiencies and failures, and lead to renewed trust mismanagement lawsuits that will cost the U.S. additional billions and cost the tribes untold lost employment, governmental revenue, and economic opportunity. This vicious cycle of trust management insufficiency must be broken, and we urge this Committee to convey this message to the Administration and your colleagues on the Appropriations Committee. We are sustainably managing our forests in an exemplary way, but cannot continue our upward path without timely and strategic investment and access to the management of a broader land base. You can help us achieve both.

We stand ready to help. To share what can be done to save our forests and see firsthand how tribes care for our lands, I invite you to visit Indian country. Come see our forests.

Thank you for the opportunity to testify today.