

TESTIMONY OF KIRK E. FRANCIS, CHIEF OF THE PENOBSCOT NATION

House Appropriations Committee
Subcommittee on Interior, Environment and Related Agencies
February 25, 2025

On behalf of the Penobscot Nation, thank you for providing me with the opportunity to testify on the Fiscal Year 2026 budget for the Interior Department, Environmental Protection Agency and Indian Health Service. My testimony today will focus on the Environmental Protection Agency, public safety and law enforcement at the Interior Department, and the Indian Health Service.

The Penobscot Nation has approximately 2,400 citizens and over 123,000 acres in land holdings. Although our lands historically covered much of what is now the State of Maine, our land holdings became scattered after enactment of a land claim settlement between us, Maine and the federal government in 1980. Our various territories can be a three-hour drive from each other. Additionally, our land base includes about 200 islands located within approximately 80 miles of the Penobscot River. Most of our land is undeveloped forest land and our seat of government and largest housing community are located on our largest island, called Indian Island. We have limited economic resources and rely on the federal government to meet its trust responsibility by providing us with federal funds for certain programs that we then use to leverage for additional competitive grant funding.

Trust And Treaty Obligations Are Not DEI Programs

We ask this Committee and Congress to work with President Trump and the agencies within your jurisdiction to clarify that federal programs, funding and employees related to Tribal Nations is not a part of any diversity, equity or inclusion (DEI) initiative or environmental justice initiative and should not be subject to any workforce reductions or funding or hiring freezes. Federal funds, programs and services provided to Tribal Nations and our communities are integral to fulfilling the United States' trust and treaty responsibilities and should be excluded from any funding cuts or workforce reductions. We have had numerous instances in the past month where our federal funding has been paused, we still have not received funds for grants that we have been awarded, and our federal points of contact at various agencies are either gone or are being told they cannot talk to us.

Tribal Nations are not racial minorities or environmental justice groups. We are inherently sovereign governments that govern our lands, waters, and wildlife and provide critical services to our citizens and those who live within our communities. Our political, government-to-government relationship with the United States is enshrined in the U.S. Constitution, treaties, and federal statutes, and has been consistently confirmed by the U.S. Supreme Court.

One of the more egregious impacts on us has been our inability to access our own trust funds that are held and managed by the Interior Department. These are funds we received in 1980 as a part of our land claims settlement with the United States and State of Maine. Accessing these funds is usually a quick and simple process, but now we are having to go through extra steps and delays because the various federal employees who play a part in the administrative process are being

told to take extra steps and conduct additional reviews. Again, this is not the federal government's money, this is our money, and it should not be held up in the implementation of the President's new priorities.

We support reducing unnecessary federal regulations, streamlining federal funding mechanisms, growing economic development and strengthening local government control. Those are the fundamental principles of Tribal self-determination. We only ask that these things be done in consultation with us to minimize the unintended negative consequences we are experiencing.

Public Safety and Law Enforcement

Last year, the Penobscot Nation testified before this Committee about our public safety and law enforcement crisis. Unfortunately, we continue to struggle. Our police department and game wardens continue to be severely underfunded, and we struggle to compete against state and local law enforcement agencies for recruiting available officers. At one point, our police department was down to only being our chief of police who had to take on administrative and patrolling duties. But for his 24 years of service with us and his ability to triage funds and work long hours, we would likely have had to close our police department.

Additionally, we ran into several problems with the Bureau of Indian Affairs (BIA) when we tried to contract with the local town's police department to help fill the gaps until we could recruit and train new officers. BIA informed us that we could not use federal funds to pay for a contract with the local town's police department because those officers were not trained by the federal government. Additionally, the BIA said it could not temporarily transfer federal officers to our Tribe to perform law enforcement duties because our Tribe is governed by a restrictive settlement act that requires our criminal law to mirror state criminal law and eliminates federal criminal jurisdiction over Tribal lands within the state. Essentially, the BIA said federal law enforcement officers could not be transferred to Penobscot temporarily because they are not trained by the state police academy. The state and federal law enforcement academies are similar, but not the same. BIA said that the local town's police officers would have to go through additional federal training before they could be paid with BIA funds. The town's police officers – some of whom have been officers for years – were not interested in having to complete additional federal training solely for the purpose of temporarily providing services for the Tribe until we can get fully staffed again. And no BIA police officers were interested in completing additional state training before they could perform duties on Penobscot land.

The inflexibility of the BIA required us to shift funds from other programs in order to enter a contract with the local police department. We understand that we are not the only Tribal Nation in the Eastern Region that has encountered this problem. Given this, we ask the Committee to include language in your report for FY2026 that directs the BIA to consult with Tribal Nations who are subject to restrictive settlement acts on ways to increase flexibility in how we use our funds for law enforcement and public safety. This is a nonsensical situation that we are currently in, and our overall public safety is suffering because of it.

As you know, funding for Tribal Courts remains at critically low levels and we continue to encourage the Committee to find ways in which to increase funding for these courts. Our Tribal

Courts are on the front lines in the battle against illicit drugs. Most of our child welfare cases continue to involve parental opioid abuse. Our court system continues to operate with an annual shortfall of more than \$500,000.

We also ask that the Committee include “Tribal governments subject to restrictive settlement acts” whenever the Committee talks about Tribes affected by Public Law 83-280. Several Tribal Nations in the Eastern United States are subject to restrictive settlement acts that are similar to Public Law 83-280, and we want to make sure we are covered by any provisions in the Committee’s report that address Public Law 83-280.

Environmental Protection Agency

The Penobscot people continue to hunt moose, deer, bear and fish on a regular basis and rely on access to traditional plants for medicinal and cultural purposes. Having access to these traditional foods and medicines cuts down on the costs of commercial groceries and reduces health disparities such as Type II Diabetes among our people. Given the importance of our land, wildlife, forestry and water to our daily living, the Penobscot Nation’s Department of Natural Resources runs several programs focused on management and protection of these resources.

We rely on various programs at the EPA to mitigate past harm caused by federal actions or inactions relating to our lands, waters and natural resources. We use EPA funds to revitalize our lands so that we can use them to live, hunt, fish, gather cultural resources, and engage in agriculture. We also use our land for economic development, such as timber harvesting, and tourism, which benefit our community and generate revenues and resources for the region in which we are located. Some of these programs are specifically designed for Tribal Nations, while others have a larger applicant pool and Tribal Nations must compete with non-Native entities for funding.

As the Committee determines EPA’s funding for fiscal year 2026, we ask that you do the following: (1) protect and increase funding for longstanding Tribal programs at the EPA, and (2) urge the agency to work with Tribal governments to identify and protect discretionary grants that have been awarded to Tribal governments. The following EPA programs are ones that Indian Country has long relied upon, and we urge you to increase funding for them:

- Clean Air Act Section 103 Grants for Tribes;
- Clean Air Act Section 105 Grants for Tribes;
- Clean Water Indian Set-Aside Grant Program;
- Tribal Clean Water Act Section 106 Grants;
- Tribal Clean Water Act Section 319 Grants;
- Indian Environmental General Assistance Program;
- EPA’s Brownfields Program; and
- The Environmental Information Exchange Network Grant Program.

In addition to the above longstanding EPA programs, EPA received funding from the Inflation Reduction Act and Bipartisan Infrastructure Law. We understand that the current Administration is reviewing and possibly revamping funding from those laws. We ask that the Committee

encourage the EPA to consult with Tribal Nations in cases where funds from those laws are intended to help us. We are open to having a dialogue about revising the use of such funds, but do not want to lose any funding given the longstanding shortages in EPA funding that benefits Tribal Nations.

Indian Health Service

The Penobscot Nation operates our own health clinic, which serves as the primary care center for most of our members who live within Maine. We rely on the Indian Health Service for funding, and supplement that funding with third party reimbursements. Our health care clinic did a great job navigating the COVID-19 pandemic, and we have been lucky to recruit and retain very talented staff who are passionate about providing quality health care.

We are always concerned about funding levels for the Indian Health Service. This Committee has been a strong advocate for increasing funding for the Indian Health Service and we hope that you can continue your strong advocacy. However, although we have seen significant increases in funding for the Indian Health Service, much of that has gone towards fulfilling legal obligations such as contract support costs and section 105(l) leases. We ask the Committee to increase funding for more primary and preventative health services, particularly as we see the life expectancy of Native Americans decline in recent years.

Additionally, we are concerned about mandatory work force reductions and hiring freezes required by President Trump's Executive Orders and the Department of Government Efficiency. The Indian Health Service has a 30% vacancy rate, and the Eastern Region, in which we are located, lost several key staff to retirement at the end of 2024. The Eastern Region of the IHS provides us with critical data and services. The staff in the Eastern Region office also help us navigate the larger federal health agencies, such as the Health and Human Services Department and Centers for Disease and Prevention. One way in which we are currently being impacted by staff vacancies is that we are not receiving regular data on the rate of influenza in our region. This is important because it feels like we are having one of our worse flu seasons. Having timely and adequate data helps us analyze and strategize on how best to respond to the disease.

Another concern we have is the potential to lose critical information technology (IT) staff. Our health system relies on strong IT staff, and we have found it difficult to recruit and retain staff with strong expertise in this area. We ask the Committee to advocate for the Indian Health Service and Tribal health staff to be exempt from any workforce reductions or hiring freeze. All of our employees are critical to the work that we do.

Lastly, we are concerned about recent moves to lower indirect cost rates for federal grants and other awards. The Trump Administration recently announced a cap on indirect costs for federal grants from the National Institutes of Health at 15%. As you know, Indian Country is unique and we have to perform our services in rural and isolated communities, where it is hard to recruit, train and retain good staff. We would not be able to perform our work under a cap of 15% for indirect costs. We ask the Committee to monitor the situation and advocate for Tribal governments to be excluded from any caps on indirect costs.