

Testimony of Cody Desautel
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&
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Good morning Chairman Manchin, Ranking Member Barrasso and members of the Committee. I am Cody Desautel, Executive Director for the Confederated Tribes of the Colville Reservation in Washington State. I also serve on the Wildland Mitigation and Management Commission in a seat held to represent forestry and industry. I'm pleased to have the opportunity to speak to you today about the Commission, the rising risk of wildfire, and the steps we can take to address it.

While I now serve as the Executive Director for the Confederated Tribes of the Colville Reservation, my professional background is in forestry. Over the course of my career, I have worked as an Inventory Forester and Natural Resource Officer, Forest Engineer, Forester, Fuels Planner, and Natural Resources Director. I have a Bachelor of Science Degree in Environmental Science and a Master's Degree in Indian Law. I also currently serve as President of the Intertribal Timber Council (ITC) in addition to my role with the Confederated Tribes of the Colville. I have had to confront the risk of wildfire in all of these roles, and it is this expertise for which I was selected for the Commission. I am also a Tribal member and have seen the impacts that wildfire, the exclusion of native stewardship, and impacts to ancestral lands have on Indian communities.

Throughout the last decade, we have felt the impacts of wildfire acutely in Colville. The 2015 North Star and Tunk Block fires burned over 250,000 acres on the Colville Reservation.¹ Since 2015, the Colville Tribe has seen more than 700,000 acres of our 1.4-million-acre reservation burn, which also caused the loss of one billion board feet of our timber burn, with a current delivered log value of approximately \$500,000,000. Yet wildfire impacts extend far beyond the market value of wood products.

Indian people suffer most from the consequences of catastrophic wildfire. When fires burn, we breathe the smoke. We suffer the loss of wildlife habitat. Our water quality is impacted, our fisheries damaged. Fires from federal lands burn our own lands, destroy our timber resources and impact sources of tribal revenue for generations. The risk of wildfire to Indian lands is compounded by the thousands of miles of shared boundary with federal agencies, primarily the U.S. Forest Service and Bureau of Land Management. There are countless examples of wildfire spilling over from federal lands onto tribal forests, causing significant economic and ecological losses. These fires regularly pose a risk to human life on Indian lands and have resulted in fatalities.

It was in response to these, and countless other, wildfire-related challenges, Congress established the Wildland Fire Mitigation and Management Commission (hereafter "the Commission") in the 2021 Infrastructure Investment and Jobs Act (Pub.L. No. 117-58). The Commission was charged

¹ <https://www.bia.gov/news/colville-reservation-north-nespelem-fuels-treatment>

with undertaking a comprehensive review of the wildland fire mitigation and management system and to deliver two reports back to you, Congress, for swift action. We delivered these reports, the Aerial Equipment Strategy Report and the final report, in January and September of 2023, respectively. These reports are cross-cutting and expansive and take a holistic approach to addressing the challenges we collectively face with respect to wildfire.

In order to accomplish the significant task you set before us as a Commission, the Commission utilized a robust workgroup process to distribute member experience and expertise. I served on the landscapes, response, and aviation workgroups, as well what emerged as a significant ad hoc working group on tribal stewardship. Today, I will focus on three specific areas of our recommendations: wood products, tribal authorities, and response (including aviation).

Wood Products

All of America's forests were once inhabited, managed and used by Indian people. Today, only a small portion of those lands remain under direct Indian management. On a total of 334 reservations in 36 states, 19.3 million acres of forests and woodlands are held in trust by the United States and managed for the benefit of Indians.

Tribes actively manage their forests for multiple uses, including economic revenue, jobs, cultural foods and materials and for other cultural purposes. Catastrophic wildfire can negatively impact all of these uses for multiple generations. In addition to the impacts we see on our reservations, we see those same impacts on adjacent federal land where tribes retain reserved and treaty rights.

Catastrophic wildfire also compounds infrastructure problems that plague most of the west. Loss of wood product value, like the Colville Tribe has experienced since 2015, diminishes critical wood product supply— a supply the already limited wood processing facilities depend upon to stay open and in business. The wood processing industry, which broadly includes sawmills, pallet mills, firewood producers, post and pole facilities, biomass power facilities and other similar uses, can help to offset the cost of forest management and is a critical and necessary tool to accomplish forest management goals and reduce our wildfire risk across our forested landscapes. Yet, many areas are struggling to retain the critical infrastructure necessary to remove material from the woods. The Commission felt that long-term federal investment and commitment is urgently needed in this realm to help re-attract private industry and funding. The Commission called upon Congress to invest in wood processing facilities and the wood utilization sector more generally (see Commission recommendation 19). This investment is critical to offset costly treatments while also providing an economic benefit to the rural communities in which such infrastructure is often located.

Congress must also incentivize the adoption of new technologies and processing systems to produce value added, and demand-driven innovative wood products (see Commission recommendation 21). The Commission also identified Forest Service's Wood Products Infrastructure Assistance grant program, Community Wood Energy and Wood Innovation Grant program, and Wood Innovations Grant program as areas for potential support. Investments in innovation are not alone sufficient however; the Commission articulated the need to support these innovations from the initial pilot phase through to commercial application.

Wildfires do not respect jurisdictional boundaries. We have seen that time and time again in Colville. The flow of fire across boundaries is one of the key constants in our evolving and escalating risk profile. Landscape-level treatments must therefore also flow across boundaries to reduce risk where the work can be most impactful. Yet federal funding rarely does. Often, federal funding is only available to be used in a single jurisdiction. This can make critical all-lands work incredibly difficult to actually accomplish. The Commission called for increased flexibility of federal funds to move across boundaries (see Commission recommendation 24). To begin this process, Congress should commission the Government Accountability Office or similar entity to review existing programs, rules, and authorities that enable or inhibit cross-boundary work. New or modified authorities may be needed to allow this critical work.

The Good Neighbor Authority (16 U.S.C. §2113a) is an existing mechanism for collaboration which enables the Forest Service and Bureau of Land Management to undertake landscape restoration projects in partnership with tribes, states, and counties. The provisions allowing partners to manage the revenue generated from the sale of timber in restoration projects under the authority has been a core component of its success. Revenues can be used to fund additional restoration services, leading to more work accomplished on the ground. This is an excellent example of the importance of mechanical treatments with a commercial component.

While the 2018 Farm Bill gave tribes and counties the authority to enter into Good Neighbor Agreements with federal agencies, the final text precludes tribes or counties from retaining revenue generated from Good Neighbor Authority projects for planning. This is a key component of building successful Good Neighbor Authority stewardship programs as states have done since 2014. The Commission discussed and was in support of expanding the management of Good Neighbor Authority revenue to Tribes, as well as supportive of expansion of the authority to more federal agencies, including the U.S. Fish and Wildlife Service and National Park Service. While the Commission did not, and cannot, endorse specific legislation, I will personally note that there is freestanding legislation in the Senate to make the necessary correction to this issue: S.697, the “Treating Tribes and Counties as Good Neighbors Act,” sponsored by Senator Risch that the Intertribal Timber Council has supported.

Supporting the wood products sector, investing in wood products innovation, and supporting essential cross-boundary forest management to provide long term access to the forest products sector are critical components in mitigating the risk of catastrophic wildfire and limiting the losses we are continuing to face. Yet, despite the important role the wood products industry can and should play in fire risk reduction, it is likely that such work will still ultimately require federal investments to match the scale of the need. Investing in proactive fuels reduction activities has the potential to reduce future wildfire-driven impacts and costs. That is why the Commission, in addition to making recommendations to support the wood products industry, recognized the need for, and recommended, significant investments in fuels reduction and mechanical treatments (see Commission recommendation 17). This includes the need to support the reintroduction of fire on the landscape to reduce the risk and severity of wildfire.

Tribal Authorities

As I previously stated, Indian people managed the land since time immemorial, often with fire as a tool. Reconnecting tribes to their ancestral homelands is not just a matter of righting past wrongs. The removal of indigenous people from the land and the discontinuation of seasonal lifeways over the past century and longer have had drastic consequences on the land. Indian Tribes want to reverse those negative consequences, and I do not believe significant progress can be made without integrating indigenous concepts of balance and interconnectedness back to the land.

Tribes hold threads of knowledge passed through our oral histories and culture that tie us to places in which our people lived, died, and practiced unique cultures. We are collectively sharing those threads to help guide the stewardship of our resources both on and off our reservations. There is no greater partner than Indian Country to bring balance and restore resilience to federal forests. Yet we, too, are at a breaking point and need Congress to act.

Much of the land that was once managed by Indian communities is now directly managed by federal agencies. Each agency has a legal responsibility to ensure that management actions are in compliance with their mandated mission and federal laws more generally. Many Tribes and Indian communities are ready and willing to return to stewardship and engage in co-management of these lands with federal agencies. However, congressional action is needed to increase tribal capacity and expand tribal authorities for co-management of public lands.

Coordination and consultation with tribes is an important first step in co-management. While this process is already required by executive order, Congress should reinforce federal agency requirements for coordination with Tribes when engaging in land management planning (see Commission recommendation 28). Also, the Federal Land Policy and Management Act (43 U.S.C. § 1712 (b), (c)(9)) requires the Secretary of Agriculture to “coordinate” land use plans in the National Forest System with those “of and for Indian tribes” by considering approved tribal land resource management programs. This goes beyond simple consultation with tribes and requires active consideration of site-specific tribal forest management and planning approaches on adjacent federal forests. Another practical step in further institutionalizing coordination is through the expansion of existing stewardship authorities that already have a proven track record of success, as well as creation of new authorities as needed to complement existing authorities.

The Indian Trust Asset Management Demonstration Project provides a good example of delegation of federal authorities to tribal governments. Congress should make permanent the Indian Trust Asset Management Demonstration Project by eliminating the 10-year sunset, allowing continued participation in the Indian Trust Asset Reform Act (Pub. L. No. 114-178, 130 Stat. 432). Passed in 2016, the Indian Trust Asset Reform Act allows, in part, for the authorization of Indian trust management demonstration projects for tribal forestry. Through Indian Trust Management Plans and demonstration projects, several Tribes have engaged in successful forest management projects to reduce wildfire risk on reservations. However, the ITARA pilot program is set to expire. Congressional reauthorization is a simple but effective step in continuing successful partnerships (see Commission recommendation 31).

While some successful programs do exist, new authorities are also needed to accomplish more expansive co-management. Congress should require the Bureau of Indian Affairs to acknowledge that federally recognized Tribes may develop fire programs on tribal trust lands under approved

tribal laws, regulations and policy, or other tribal decision-making processes (see Commission recommendation 15) similar to the Indian Trust Asset Management Demonstration projects mentioned earlier. It is important to note that this authority be focused on empowering tribes and granting BIA the flexibility to recognize tribally developed policies, management priorities, and decision processes versus maintaining that fire management is an “inherent federal function.” Particularly since tribes are some of the communities most impacted by wildfire.

In a similar vein, Congress should provide the U.S. Department of Agriculture standalone authorities to enter into co-management agreements with tribes that would allow the Forest Service to share, defer or transfer decision-making authority with or to a tribe for management of Forest Service programs or activities (see Commission recommendation 30). This new authority should build on what has been learned from the previous successes and failures of existing authorities, including 638 contracts and compacts, the Tribal Forest Protection Act, and the Indian Trust Asset Reform Act. We know these programs work and we know these programs can be improved.

Finally, many tribes are already well-positioned and resourced to enter into co-management with federal agencies to reduce wildfire risk. However, additional support is needed for some tribes to support self-governance and capacity in order to address wildfire risk reduction, management, and recovery, and to enable beneficial fire practices (see Commission recommendation 29). By providing federal agencies with the authority to partner, and providing tribes with additional resources, Congress can bring new capacity to a system that has struggled to develop the necessary workforce to reduce risk at scale.

Indian Tribes across the country stand ready to bring our indigenous knowledge and modern expertise to federal forest management.

Wildfire Response

The importance of reducing the risk of wildfire through mitigation actions in both the natural and built environment cannot be overstated. That does not mean we can ignore the need for a robust and coordinated response to wildfires when they do start. We will always have a need for response, be it to shepherd low-intensity fires that are doing good on the land, or to suppress fires that are burning during undesirable weather or fuels conditions or are too close to communities.

The Commission addressed the response component of the wildfire system through two different workgroups, and ultimately, through two reports to Congress. Our first report, the Aerial Equipment Strategy report was released in January 2023 and was called for directly in the enabling statute of the Commission. Our broader response recommendations are contained in the final report, released in September 2023. I served on both workgroups that addressed these topics.

To begin with response coordination writ large, I want to note that a key theme of the recommendations is improved collaboration between the various agencies and entities that play a role in the wildfire response system. We often think of interagency coordination as a federal-to-

federal problem to solve, which is important, but ultimately unduly limits the scope of partners that should be considered and utilized.

With respect to tribes, the commission saw a need to bring them into the response system on the same footing as states. Enabling more tribes to enter into compacts will expand the available resources for wildfire response and management, including beneficial use of fire. This could be accomplished through a modification of the 1911 Weeks Act, which provided funding and authority for states to manage wildfires within their geographies through fire protection plans and state agencies. Tribes could also be further empowered to engage in wildfire response through an addition to the Indian Self Determination and Education Assistant Act, or another mechanism. Regardless, any policy modifications should make sure to advance parity and equity for tribes in the compacting process (see Commission recommendations 48 and 49). Furthermore, additional funding from Congress could be a means to expanding the workforce for fire response (see Commission recommendation 92).

As I previously noted, the Commission was given a specific charge to develop a strategy to meet aerial fire response equipment needs through the year 2030. Over the course of our work, we reviewed previous strategies and assessments; reviewed data sources on aviation resource use and availability from federal agencies; and met with a range of subject matter experts, including state and federal personnel, and representatives of the private aviation contracting industry. As with the final report, the recommendations developed through this process reached full consensus with the entire Commission.

Importantly, the Commission found that the current wildland fire aviation strategy is based on a seasonal model, yet fire seasons are now longer, overlap geographically in ways they previously did not, and indeed, may be best thought of as a full fire year. Given this, we feel that a reassessment of strategy is required. This is also particularly true as the potential of uncrewed aerial systems - commonly referred to as drones - increases. Use of this new technology needs to be incorporated in strategies moving forward (see Commission aviation recommendations 18 and 19).

To help develop such a strategy, the Commission recommends Congress establish a task force composed of a cross-representative group of fire organizations and other interested and affected parties to explore the feasibility of a regionalized approach to “standards of cover” (see Commission aviation recommendation 1). Important to note, the Commission did not recommend the wholesale adoption of such a standard, but rather found the concept to warrant further consideration. Such a standard - essentially a commitment to respond in a specific timeframe with a defined capacity - is not a strategy in and of itself, but rather a kind of performance measure which may allow for a benchmark to be used to determine if a deployment has met a strategic goal.

A core component to this work should be collaboration and inclusion of all the impacted and relevant entities, including the contracting community, and should be considerate of costs and open to the exploration of the tradeoffs of different ownership models (see Commission aviation recommendations 2-4). This is the best option for developing a truly national - not simply federal - aviation resource strategy. Related, contracting processes need to meet operational needs and

the national strategy (see Commission aviation recommendations 5 and 6), including reliable, longer-term contracts. Efforts should be made to improve the effectiveness and efficiency of the contracting process.

It is important to note, however, that while aerial resources have value in managing unwanted fires, aviation actions are not the sole solution to mitigating and managing wildfire risk. Furthermore, aerial assets cannot be operated without sufficient staffing and training to ensure safe operations. Lack of qualified personnel is a bottleneck to the use of existing resources. Congress can help alleviate this problem through increased investments in training (see Commission aviation recommendations 8-10).

Regarding the use of Department of Defense surplus, a component of the charge given to the Commission, we found that adoption of military surplus aircraft by either agencies or private contractors carries risks and costs that are often overlooked. We heard that federal agencies are ill-equipped to make use of such equipment, in part because the federal model is structured around the use of contractors. Some states and contractors, however, may choose to make use of surplus, and such equipment should be more transparently and readily available (see Commission aviation recommendations 14-16). Additionally, more should be done to improve interoperability between military and civilian assets, particularly in those locations that may lack a contract fleet (see Commission aviation recommendations 11-13).

Conclusion

The Commission itself was a product of Congress. We worked hard to complete the tasks assigned to us. Working collaboratively, the Commission found unanimous consensus among 50 people across 167 policy recommendations contained within two reports. At your direction, these recommendations were delivered back to you for urgently needed policy change. It is important to note that agencies can't accomplish this work alone; congressional action is needed to grant new authorities, expand existing authorities and programs, and provide consistent base funding at the appropriate scale to meet the staffing and activity needs.

Thank you, Chairman Manchin, Ranking Member Barrasso, and members of the committee for your continued work to meet the wildfire challenges we face.