

**STATEMENT OF
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DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING ON
TRIBAL TRANSPORTATION: PATHWAYS TO INFRASTRUCTURE AND
ECONOMIC DEVELOPMENT IN INDIAN COUNTRY
MARCH 13, 2014**

Good morning Chairman Tester, Vice Chairman Barrasso, and members of the Committee. Thank you for inviting the Department of the Interior (Department) to provide testimony at this oversight hearing on the topic of “Tribal Transportation: Pathways to Infrastructure and Economic Development in Indian Country.” My name is Mike Black, and I am the Director of the Bureau of Indian Affairs (BIA) at the Department.

As this Committee is aware, the Department provided testimony before this Committee in the 112th Congress on the topic of “Strengthening Self-Sufficiency: Overcoming Barriers to Economic Development in Native Communities.” We identified that one of the many barriers to economic development in Native Communities was the lack of physical infrastructure. In February 2014, the Administration announced its vision for transportation. The emphasis continues to be promoting job growth in the transportation sector and putting more Americans back to work repairing and modernizing our roads, bridges, railways, and transit systems. This includes the roads and bridges that are constructed, maintained and traversed in Indian Country. We appreciate the recognition in the President’s proposal for the importance of transportation programs to Indian Country. As you will hear in my remarks, transportation is a necessity for economic development, health and safety and education in Indian Country.

The Department and the BIA remain committed to improving and adequately maintaining transportation systems to provide increased public safety and economic development opportunities in Indian communities. Safe roads are important when transporting people in rural areas to and from schools, to local hospitals, and for delivering emergency services. In addition, transportation networks in American Indian and Alaska Native communities are critical for economic development in such communities because these transportation networks provide access to other economic markets. I appreciate this opportunity to share with the Committee some of our accomplishments and also our concerns for tribal transportation as we implement MAP-21 and look to reauthorization of this important law.

Overview

The BIA and the Federal Highway Administration within the Department of Transportation (FHWA) have been involved in the repair, construction and reconstruction of roads on Indian Reservations since the 1920s. From 1950 until 1983, Congress appropriated annual construction and maintenance funds to the BIA to maintain, repair and construct roads on Indian Reservations

through the Department of the Interior. During this time, approximately \$1.2 billion was provided for both construction and maintenance of reservation roads.

Tribal Transportation Program

The Surface Transportation Assistance Act of 1982 established the Indian Reservation Roads (IRR) Program funded within FHWA's Federal-aid account. Since the establishment of the IRR Program and its successor as part of MAP-21, which is now called the Tribal Transportation Program (TTP), the total Federal construction authorization for Tribal Transportation has exceeded \$8 billion. The TTP is jointly administered by the BIA and the FHWA. These investments have contributed greatly to the improvement of roads and the replacement or rehabilitation of deficient bridges on or near reservations throughout Indian Country.

Today, the National Tribal Transportation Facility Inventory (NTTFI) consists of over 158,000 miles of public roads with multiple owners, including Indian tribes, the BIA, states, and counties, as well as other Federal agencies. Of this amount, approximately 11,500 miles are planned or proposed roads of varying surface types and uses. There remains a great and continuing need to improve the transportation systems throughout Indian Country. We believe Congress has viewed this as a joint responsibility including not only Federal agencies, but state and local governments with transportation investments in or near American Indian and Alaska Native communities, as well. Coordination among all of these stakeholders is required in order to maximize available resources to address transportation needs. Tribes are continuing to invest in transportation projects that are the responsibility of other public authorities. This creates jobs and contributes to the economy of local businesses that provide services and materials. Strengthening existing partnerships will continue to support the local economy and bring improved infrastructure to communities on or near Indian reservations and lands. In all, tribes have planned transportation projects estimated to lead to approximately \$270 million worth of investment in non-BIA and non-Tribal projects over the next 3 years. An investment in tribal transportation is truly an investment in the local economy.

The Bureau of Indian Affairs responded to the 1991 highway legislation, the Intermodal Surface Transportation Equity Act of 1991 (ISTEA), and recognized the importance of our Nation's transportation infrastructure to recreational travel, tourism and trade, and our ability to compete in the global marketplace. This was an opportunity for BIA and the tribes to participate in the dialog and have a say in the execution of transportation programs. This is important because the opportunity to develop robust economic growth is closely tied to access to transportation and related infrastructure. The BIA has invested resources toward the development of technical assistance and training for tribal tourism development through the establishment of the American Indian Tourism Conference in 1999 and the American Indian Alaska Native Tourism Association (AIANTA). AIANTA has become a voice for Indian Country to the tourism industry and is successfully helping tribal communities to realize their potential in the global tourism industry. Tribes deserve the ability to provide visitors with reasonable transportation access and safety to their rural homelands and to share their history and culture with the travelling public through transportation enhancements such as context sensitive design, interpretive signage, informational kiosks, and scenic byways. We believe Indian Country

tourism is a tremendous asset to America's international tourism competitiveness and a worthy investment.

BIA Road Maintenance

In partnership with the Department of Transportation, the BIA currently implements both the TTP program, funded by within the Federal-aid account, and the BIA Road Maintenance Program, funded by the Department of the Interior. The BIA Road Maintenance Program has traditionally been responsible for maintaining only roads owned by the BIA. Today, of the 146,000 miles of existing roads in the NTTFI, the BIA has responsibility for approximately 29,500 miles of roads designated as BIA system roads. The BIA receives approximately \$25 million in Tribal Priority Allocation (TPA) funding annually for the administration of the road maintenance program for those roads.

BIA supports self-determination and the empowerment of tribes by contracting out a significant portion of the program with tribes. Approximately 85 percent of tribes with BIA system roads within their reservation boundaries currently carry out the BIA Road Maintenance Program through self-determination contracts or agreements. Approximately 22,200 miles (75 percent) of the BIA system roads are not paved and are considered “inadequate” based on the level of service index used to assess roads and bridges in the BIA road system. The FY2013 deferred maintenance for BIA roads was estimated at \$280 million.

FY2015 Budget Request for Tribal Transportation

The Administration’s FY15 budget reflects the President’s continued commitment to addressing the transportation needs of Indians and Native Americans. This budget recognizes that supporting safe and reliable transportation and public road access to and within Indian Country contributes to stronger tribal economies, communities and families. Highlights of the FY2015 budget for the Tribal Transportation Program include:

- Program funding is increased from \$450M to \$507M. The increased amount is targeted toward new and/or increased set-asides.
- The Tribal High Priority Projects Program is integrated back into the core program as a 7% set-aside. MAP-21 had authorized this as a separate program funded from the General Fund.
- Increased the tribal planning set-aside from 2% to 3% to address additional data collection requirements.
- Increased the tribal bridge set-aside from 2% to 4% to address the growing backlog of tribal bridge needs.

The program structure and funding formula under MAP-21 are retained. The FY2015 budget also includes a new \$150M program for large, nationally significant projects accessing federal

and tribal lands that cannot typically be funded through core funding allocations to tribes or Federal agencies.

Reauthorization of MAP-21

As we discuss the need for jobs, infrastructure and safety of roads in Indian communities, it is important to note our support for the reauthorization of MAP-21. The most significant impact to the TTP program under MAP-21 is the implementation of the new formula established by Congress. One significant difference is that more funding is available for distribution to tribal shares under the new MAP-21 formula, although the MAP-21 allocation is equal to the amount for the last year of SAFETEA-LU. The formula share of IRR program funds in FY2011 and 2012 were respectively \$336.7 million and \$322.3 million. The formula share of TTP funds in FY2013 and FY2014 were respectively \$387.6 million and \$384.3 million. This has allowed more funding to be directed to tribal priorities. The new formula also allows for a consistent estimate of allocations in advance for future projects and timely allocation to tribes because a major portion of the data is known prior to beginning of the fiscal year.

Although more funding is allocated to tribes for their priorities, certain programs have decreased shares under MAP-21. The bridge program is decreased significantly from a separate program of \$14 million per year to a set-aside program from within the total amount of less than \$9 million per year. However, the bridge set-aside proposed in the FY 2015 budget would address this concern by providing approximately \$20 million to address critical bridge needs in Indian Country.

In addition, the requirement of the Secretaries of Transportation and Interior to perform safety inspections on all 930 tribally-owned bridges has not been adequately funded. The number of bridges which are deficient or functionally obsolete and are eligible for replacement or rehabilitation for BIA bridges alone in the 2012 National Bridge Inventory is approximately 170 of 930 (or 18.7% of the total). The estimated cost of correcting these deficiencies is \$53.2 million. The estimated cost of inspecting the tribally-owned bridges along with the BIA is \$3.0 million every other year.

Although the MAP-21 formula has addressed the long standing issue of competitive formula, there are implementation issues regarding the application of certain data to the calculation of tribal shares. As an example, approximately 28 or more tribes do not have a recorded population within the statutorily mandated American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.). We believe the rationale for considering this data was to reflect a relative need due to tribal population of the impacted tribes, but we do not believe it was designed to in effect leave certain tribes without any population-based funding. The use of default minimum or alternate data such as the BIA Labor Force Report in addition to the NAHASDA based values to make allocations would help to provide some equality to tribes that are currently disadvantaged.

While tribes with zero population, as reported in NAHASDA, do not receive funding based on population, they do receive some consideration for funding under the other elements of the

formula including total eligible road mileage as of 2004, and the ratio of the average of the share percentage from fiscal years 2005 through 2011 as compared to the amount for all tribes within the BIA Region. Recently-recognized tribes and any tribes recognized in the future may receive little or no funding because they do not have a population recorded in the required database, they will not have any eligible miles, and they do not have a history of funding as required by the third element of the formula.

Conclusion

The Bureau of Indian Affairs and the Department are committed to working with this Committee and others in Congress to address the transportation needs in Indian Country through our support for the Tribal Transportation Program, the Road Maintenance Program, and other Title 23 USC funding provided for transportation in Indian Country.

Thank you for the opportunity to present testimony on an issue that is an important part of the employment, economic infrastructure and roads safety for tribes. I will be happy to answer any questions you may have.