

**SHOSHONE AND ARAPAHO TRIBES
AND
THE TRIBAL TRANSPORTATION COALITION OF LAND BASED
TRIBES**

COMMENTS ON TRIP ACT

Introduction:

The Tribal Transportation Coalition of Land Based Tribes is grateful for the leadership role Senator Byron L. Dorgan has taken to support the Tribal initiatives in the upcoming reauthorization of SAFETEA-LU. Under Senator Dorgan's leadership we are certain that the issues and concerns of all tribes will be considered in the reauthorization of SAFETEA-LU. We are thankful for the opportunity to comment on the TRIP Act.

The Tribal Transportation Coalition of Land Based Tribes has reviewed the NCAI White Paper along with the Discussion Draft of the proposed Reauthorization Bill, published by the Senate Committee on Indian Affairs, to amend the SAFETEA-LU, titles 23 and 49, United States Code, and the Indian Self-Determination and Education Assistance Act also Cited as the "Transportation Reauthorization of Indian Programs (Trip) Act".

While we agree with most of the provisions of the proposed TRIP document, we disagree with certain items as contained in the proposed Bill and we also find that there are many on going issues negatively affecting Land Based Tribes that are not addressed in the proposed bill. As such we offer our comments as Follows:

Comments on Proposed Bill:

- Page 11, Line 8 references 23 U.S.C. section 202(d) (9). There is no section 202(d) (9) in 23 USC.
- Page 11, Lines 21, 22 & 23. Indian Tribes are not eligible to apply for these funds directly and must apply through the State if they have an approved project. The funds referenced in section 202(1) (b) (1) are restricted to States and Forest Highways.
- Page 12, Lines 1, 2, & 3. Same as above.
- Page 13, Lines 23, 24, & 25 and Page 14 Lines 1 through 13. The Coalition of Land Based Tribes cannot agree with this section. Allocation of IRR funds is to be based on "Relative Needs" of Indian Tribes. The set aside of another \$28 million off the top will further erode the funding available for actual IRR projects.

- Page 33, Lines 11, 12, 13, & 14. This appears to set the floor amount a Tribe can use IRR funds for Road Maintenance at \$500,000. The Coalition disagrees with this provision because it relieves the Federal Government of their responsibility to maintain reservation roads and redirects critical IRR funding to road maintenance.

Other Concerns and Comments:

The proposed TRIP Bill as written does not address the issues and concerns confronting the Land Based Tribes regarding the diversion of Indian Reservation Road Program funds meant for the benefit of Indians to non-Indian entities. The percentage of funding generated by non-Reservation facilities is near Ninety (90) percent. We are concerned that if this trend continues, the IRR Program will cease to exist and Tribes will have to access their Road construction funding through the States.

Of particular concern, we see that the injury and death statistics used in justifying funding increases are taken from statistics on roads actually located on “Indian Reservations”. While this is all well and good to document the appalling conditions on Indian Reservations, we are dismayed when we see news articles of Indian Tribes giving millions of IRR dollars for construction of Interstate Highways and Bridges. We ask how does this address the appalling conditions on Indian Reservations.

We firmly believe that the Indian Reservation Roads Program was established for benefit of Indians living on Indian Reservations. This is a Trust Responsibility of the Federal Government guaranteed by Treaties between Indian Tribes and the Federal Government when Indian Tribes gave up their land and were forced to live on Reservations.

The funding for the IRR program comes out of the Federal Lands Highway Program whose primary purpose is to provide funding for a coordinated program of public roads that serve the transportation needs on Federal lands which are not a State or local government responsibility. Also, Title 23 United States Code, Section 204 specifically states that the Federal Lands Highways Program was established for **Federal roads**. State and County roads are neither Federal roads nor are they located on Federal Lands. Tens of Thousands of non Federal roads are being used to calculate tribal shares which is limiting the shares to land based tribes. We do not understand how the Federal Land Highway Program Office can condone funding tens of thousands of miles of State and County roads which are not a Federal responsibility.

For the past 2 ½ years the Council of Large Land Based Tribes has been attempting to correct the misinterpretation and misapplication by the Bureau of Indian Affairs (BIA) and the Federal Highway Administration (FHWA) of the recently enacted regulation of the Indian Roads Program as contained in 25 CFR 170. This misinterpretation and misapplication manifests itself as the uncontrolled implementation of the road inventory update process which is used to generate formula shares for all tribes. This uncontrolled implementation of the inventory continues to go unchecked and

is having a devastating effect on Land Based Tribes located in Montana, Wyoming, Arizona, New Mexico, Utah, the Dakotas and some tribes in Minnesota.

Because of this uncontrolled implementation of the inventory update process, that part of the inventory which generates share amounts for the Land Based Tribes has been significantly reduced from 76% in 2006 to 28% in 2008 and is declining at an accelerated rate.

Additionally, there has been inconsistent application of the regulations that have harmed the Land Based Tribes. Specifically, there are tribes in certain BIA Regions that are allowed to generate 100% funding on U.S. Highways while Tribes in other Regions are restricted to the non-Federal Share. Similarly, certain regions are allowed to include unlimited miles of proposed roads, while others cannot.

We feel that the following critical issues are the root cause of the rapid decline in funding for the Land based Tribes and must be corrected in the Reauthorization Bill in order to return this program to what Congress intended it to be.

Based on the above, The Coalition of Land Based Tribes has identified various corrective actions that must be implemented immediately in order to make 25 CFR 170 a useable rule that is not biased against Land Based Tribes constrained by reservation boundaries and geographical locations.

The various corrective actions are:

1. Define Indian Reservation Road:

The definition of an Indian Reservation Road (IRR) that is contained in 25 CFR 170. is “*a public road that is located within or provides access to an Indian reservation or Indian trust land, or restricted Indian land that is not subject to fee title alienation without the approval of the Federal government, or Indian or Alaska Native Villages, groups, or communities in which Indian and Alaska Natives reside, Whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians*”.

Recommendation: We propose that the following be added to the above paragraph: *Public roads owned by State or local governments that are eligible for Federal funding, other than Federal Lands Highway Program funding, are considered an Indian Reservation Road and may be included in the IRR Inventory however, formula funding generated by these State and local government roads shall be restricted to those routes that have a documented scheduled project and IRR funding shall be limited to the non-Federal share.*

2. Define Access:

The term “Access” is not defined in the regulation. There are tribes in certain BIA Regions that are being allowed to include thousands and thousands of miles of State and County roads into their IRR inventories which are generating huge amounts of funding.

However, many of these roads do not connect to tribal lands nor are they limited in the lengths that are being added into the inventory. This is especially unfair to Land Based reservations which are most typically geographically isolated and therefore cannot add thousands of miles of roads just to generate high formula numbers.

Definition of Access. – The statutory definition of an Indian Reservation Road is: “*a public road that is located within or provides access to an Indian reservation or Indian trust land, or restricted Indian land that is not subject to fee title alienation without the approval of the Federal government, or Indian or Alaska Natives Villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.*” See CFR 170.5

Although this is a somewhat comprehensive definition of an Indian Reservation Road it does not define “access” nor does it place any limit on to what extent the route can be included in the IRR inventory. Because of this ambiguity, the Bureau of Indian Affairs is allowing tens of thousands of non-BIA miles or non-Tribal system routes into the IRR inventory. These routes include Interstate Highways, National Highway System Roads, State, County and Township Roads, Federal Forest Roads, and proposed roads. Most of these routes are not located within nor do they provide access to Indian or Native lands with some even being located in designated Roadless and Wild areas.

The Coalition believes that the intent of Congress was to limit the term to roads, or portions thereof, whose **primary or exclusive** purpose is to provide access to Indian lands by actually connecting to the Reservation or Trust Lands.

Recommendation: *We propose that the term “Access” be clarified in the Statute to mean that the route’s primary or exclusive purpose is to provide access from the established exterior boundary of Indian Lands to the route’s intersection with the next equal or greater functional classification or the first mile from the established exterior boundary, whichever is less.*

No funding shall be generated for the portion outside the exterior boundaries of those Indian lands except those routes owned by Tribes or the BIA, or those routes with an approved project agreement in place with the owning agency and in such cases, the funding shall be restricted to the non-Federal share. Access roads shall be restricted to those roads that physically connect to Tribal lands.

3. Define Project in the Regulation.

The regulations do not define “Project”. Most of the non-Federal roads included in the IRR inventory are generating funding regardless if it is a project or not. It is our interpretation of the regulation that any non-Federal facility can be included in the IRR

inventory for planning and intergovernmental coordination purposes but, they cannot generate funding until there is a project designated on the route. The BIA and FHWA are allowing tens of thousands of miles into the IRR Inventory only to generate funding with no intention of ever building a project on these facilities.

23 USC defines a project as an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking eligible for assistance under this title. There are Tribes who are interpreting the regulation to mean that any facility that is added to the IRR inventory is to be construed to be a project.

Recommendation: *The definition of Project as contained in 23 USC must be included in the definitions section of 25 CFR 170 and before a route can generate IRR funding, documentation verifying that an actual project is being planned for the route and a project agreement with the facility owner must be provided to the BIA and FHWA.*

4. Define Relative Need

We believe that the term “Relative Need” is being misinterpreted by certain tribes and the Bureau of Indian Affairs Central Office personnel. By allowing thousands of miles of State and County Roads in the IRR Inventory (now in excess of 100,000 miles) this does not accurately represent the actual transportation needs of tribes.

Because the term “*Relative Need*” not defined in the Statutes or regulation, we ask clarification on the following:

- (a) Although tribal members may use State and County roads to access essential goods and services, is it the Federal government’s responsibility to provide funding for these routes if there is no intention to construct any portion of the route?
- (b) How are the needs of a tribe that is located close to Interstate highways, high volume US highways or urban areas and surrounded by high volume roads and streets that are owned by others relative to the needs of a tribe that is located on a remote reservation and whose only source of funding is the IRR program?
- (c) Is it fair to allow a tribe to include State and County facilities into their inventory just to generate funding (in many cases using bogus data) when those facilities are the responsibility of others and have other sources of funding?

Land Based tribes cannot compete under these circumstances and allowing this to continue does not address the deplorable conditions on Indian reservations. A concise definition of “Relative Need” is essential in order to ensure the intention and to improve the consistency of the methodology applied by each BIA Region.

Recommendation: *In determining “Relative Need” for the IRR Program, only those facilities owned by the Bureau of Indian Affairs or Tribe shall be incorporated in the equation. Facilities owned by others may be included only if an actual need is identified in the Tribe’s Long Range Transportation Plan and an actual project is planned by the Tribe and the owning agency.*

5. Legality of 25 CFR Part 170, Appendix C to Subpart, C Question 10.

The language in this Subpart allows non-Federal facilities (i.e. State and County roads) into the IRR inventory to generate funding at 100%. No where in the Federal Statutes (23 USC) does it allow non-Federal facilities to be included over and above the non-Federal share (typically 20%).

The language contained in the existing appendix is contrary to the intent of Congress when it created the Federal Lands Highway program under the Surface Transportation Assistance Act. The current question 10 as it is written is illegal in that it is allowing non-Federal facilities to generate funding at 100%.

Recommendation: Question 10 must be rewritten to comply with all statutes governing the Federal Lands Highway program. We recommend that Question 10 be re-written as follows:

Do all IRR Transportation Facilities in the IRR Inventory Count at 100 Percent of their CTC and VMT?

No. Other than BIA and Tribal roads, only those transportation facilities that were approved, included, and funded at 100 percent of CTC and VMT in the IRR Inventory for funding purposes prior to the issuance of these regulations. All other facilities will be computed at the non-Federal share requirement only if they meet the following criteria:

- A. The transportation facility is included in the approved five (5) year Transportation Improvement Plan (TIP). Upon inclusion in the approved TIP, those facilities that are included in the IRR inventory with a Construction Need (CN) of 0 or 2 must be converted to a Construction Need (CN) of 1.*
- B. Public roads owned by the Bureau of Indian Affairs or Tribal Governments shall generate 100% funding. Public roads owned by State or local governments shall be eligible to generate IRR program funding at the non-Federal or local match only if there is an actual project scheduled for the route and the Bureau of Indian Affairs or the Tribal Government has an executed Project Agreement with the owning agency .*

6. Restrict Proposed Roads in the IRR Inventory:

Proposed roads being added indiscriminately to the IRR Inventory System. The BIA and FHWA are allowing thousands of miles proposed roads into the IRR inventory only to generate huge funding amounts. We have reason to believe that many of the routes are located within designated “Road less and Wild” areas and are not eligible to be included in the inventory. The manner in which the BIA is allowing proposed roads into the system is inconsistent whereby certain BIA Regions are allowed into the inventory and other Regions are not.

Recommendation: *Proposed Roads shall comply with all Federal Regulations regarding Roadless and Wild Areas. Calculation of CTC and VMT for Proposed Roads shall be restricted to actual projects scheduled for the route and the Bureau of Indian Affairs or the Tribal Government has an executed Project Agreement with the owning agency. A proposed road project must demonstrate actual need and the planning processes used to document need.*

6. Establish an IRR Inventory Oversight Committee:

From the uncontrolled and indiscriminate manner in which inventory data is being added into the IRR Inventory, (33+ thousand miles in 2004 to 120+ thousand miles in 2009) it is obvious that neither the BIA nor the FHWA are providing any quality control or quality assurance of the inventory data that is being used to calculate funding for IRR distribution. Or worse, the quality control of the data is disparate or discriminating and is not applied consistently across all tribal data. This is evidenced by the fact that Tribes in certain Regions are being allowed to input fraudulent data only to generate funding. The owning agency has no intentions of doing a project on the route, yet the tribe can put it on their inventory and generate funding indefinitely.

Recommendation: *An Inventory Oversight Committee made up of Tribal Transportation Officials must be established to monitor the inventory data that is being submitted. This committee will review all inventory data and will decide what data is eligible to be included into the official inventory. The committee will work as needed to verify inventory updates, working on records submitted first (first in – first out concept) and it's work will not delay computation of new formula percentages. Data not reviewed by the inventory update deadline will be handled as part of the next years inventory update.*

7. Fund the BIA Road Maintenance out of the Highway Trust Fund:

The BIA Road Maintenance Program has been chronically underfunded under the U.S. Department of the Interior. This program is included in the Tribal Priority Allocation (TPA) and must compete with other Tribal social programs for funding. The funding invested in Road and Bridge Construction on Indian Reservations is being compromised due to inadequate maintenance funding. While funding for Road Construction has increased the amount of funding available for Road Maintenance has declined. Consequently, roads and bridges constructed on Indian Reservations last about half of their design life. The maintenance of these facilities is a Federal responsibility and the health and welfare of Tribal members who have to use these roads is at risk on most reservations.

Recommendation: *It appears that a gas tax increase is evitable to restore the Highway Trust Fund. Construction and maintenance of roads and bridges on Federal Lands is the responsibility of the Federal Government. A portion of the new tax (1/2 Cent) should be designated for construction and maintenance for Federal Lands highway Programs.*

Numbers and Statistics of Concern:

As discussed above, there clearly are ambiguities and loopholes contained in the Federal Regulation, 25 CFR 170 that in fact have been exploited at the expense of the Land Based Tribes. This exploitation has diverted scarce funding intended for the benefit of Indians to non-Indian entities and has resulted in pitting tribe against tribe. Furthermore, the fantastically unreasonable formula outputs have demonstrated a basic failure to oversee a system responsible for distributing over \$2.5 Billion in IRR program funds. Confidence in this whole inventory driven system is shaken, especially due to the accelerated rate of decline of tribal shares going to Land Based Tribes. The results of the latest formula runs shown that the Land Based Tribes have in fact suffered major declines in share amounts determined by the current system. Following are examples to illustrate this assertion (NOTE: The numbers/statistics below are derived from data received from the Regional Offices and other published data from Central Office. Various specific data requests from Central Office have gone unmet and therefore slight differences from official Central Office data and that shown in this paper may exist. None-the-less, the differences in source data is insignificant and would not significantly alter the numbers/statistics following).

The following (**Table 1**) shows a comparison of the regional TTAM formula shares from 2004 through 2009:

REGION	TTAM formula %s		% chng	% Trust Acreage
	2004	2009		
G Plains	7.726%	7.004%	-9.334%	11.1030%
S Plains	5.227%	4.759%	-8.952%	0.8806%
R Mount	6.812%	6.481%	-4.855%	11.8647%
Alaska	10.036%	11.508%	14.663%	1.6362%
Midwest	6.321%	15.235%	141.009%	2.2342%
E Okla.	11.536%	14.284%	23.823%	1.2250%
Western	9.037%	6.259%	-30.746%	23.3723%
Pacific	2.285%	3.201%	40.072%	0.8024%
Southwest	7.957%	3.934%	-50.555%	8.1288%
Navajo	22.529%	17.123%	-23.993%	28.9848%
Northwest	8.057%	7.537%	-6.457%	8.6853%
Eastern	2.477%	2.675%	7.974%	1.0827%

(TABLE 1)

From the above (Table 1), it is easily discerned that those regions with the Land Based Tribes / reservations and large amounts of Trust lands have all experienced significant formula percentage reductions in some cases. Conversely, those regions with no/small reservations and small amounts of Trust lands have all experienced significant formula percentage increases. (Table 1) reflects the uncontrolled implementation of inventory data which is allowing non-BIA/Tribal roads such as National Highway System Roads, State and County Roads to generate enormous Cost to Construct (CTC) and Vehicle Miles Traveled (VMT) numbers. This is a critical concern to the Land Based Tribes since we deal with massive on-reservation vehicular transportation needs. Land Based Tribes needs arise from tribal and BIA roads located on the reservation and meeting them relies primarily on IRR funding. The geographic isolation and reservation boundaries of most Land Based tribes prohibits them from competing in a system that promotes including off reservation high volume National Highway System Highways, State and County into the system - just to reap the high VMT and CTC formula values. Most Land Based Tribes priorities are not others National Highway, State or county roads, but the very roads they must travel to get the basic medical and educational services.

Another indication of how that this system is working against the Land Based Tribes is by looking at the IRR Program investments across the Regional Offices. The following (Table 2) shows Tribal Share dollar amounts by regions as compared against Trust Acreage:

Region	2009 Funding	Trust Acre	Trust Acre	Regions w/Min Trust Acreage
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	\$		%	i.e. Non-Traditional Resrvns	
Great Plains	24,613,530	5,999,690	11.10302%		
S Plains	17,167,425	475,868	0.88064%	0.88064%	17,167,425
Rocky Mtn	22,424,899	6,411,254	11.86466%		
Alaska	45,824,695	884,131	1.63617%	1.63617%	45,824,695
Midwest	53,384,113	1,207,310	2.23425%	2.23425%	53,384,113
E Okla.	49,510,074	661,947	1.22500%	1.22500%	49,510,074
Western	22,817,509	12,629,572	23.37227%		
Pacific	13,792,605	433,591	0.80240%	0.80240%	13,792,605
Southwest	14,405,174	4,392,501	8.12876%		
Navajo	58,517,213	15,662,413	28.98484%		
Northwest	27,472,545	4,693,240	8.68530%		
Eastern	10,065,050	585,050	1.08269%	1.08269%	10,065,050
Totals	359,994,832	54,036,567	100.00%	7.86%	\$189,743,963

(Table 2)

(Table 2) above reveals that in 2009, approximately \$190 M are being spent on approximately 7.9% of the trust acres at those Regions with little Trust Land area and/or with few small or no reservation based tribes. Conversely, approximately 53% (\$189M+ / \$359M+) of the IRR funding is being spent on approximately 7.9% of the trust acres at those Regions with little Trust Land area and/or with few small or no reservation based tribes. Back in 2004 before the current inventory update process/formula was implemented, only 37 % of the IRR funding was spent on these same regions with approximately 7.9% of the trust acres at those Regions with little Trust Land area and/or with few small or no reservation based tribes. Although the data is not displayed in the (Table 2) above, data exists that shows approximately 47 % of the fund generating miles and approximately 53% of the fund generating VMT are within approximately 7.9% of the trust acres at those Regions with little Trust Land area and/or with few small or no reservation based tribes. These disproportionate percentages further demonstrate the unfair advantage realized by those tribes in high population density areas where large numbers of proposed roads are added to inter-connect fragmented or non-reservation Indian communities such as Interstate/NHS and county roads for VMT purposes -- or in very low population density areas where large numbers of proposed roads (as very lengthy access roads) are added to connect non-reservation Indian communities to various State infrastructure.

Some other striking numbers that strongly indicate that the reservation Land Based tribes cannot compete in the current system and further demonstrate how the system is skewed against those Regions with the Land Based Tribes and vast majority of the Trust Acreage is shown in (Table 3):

	Trust Acre / Mile	\$ / Trust Acre

	Significantly non-Trust Acres	Significant Trust Acres	Significantly non-Trust Acres	Significant Trust Acres
Great Plains		431		4
S Plains	80		36	
Rocky Mtn		664		3
Alaska	56		52	
Midwest	72		44	
E Okla.	53		75	
Western		1,369		2
Pacific	184		32	
Southwest		674		3
Navajo		1,226		4
Northwest		401		6
Eastern	180		17	
Averages	104	794	43	4

(Table 3)

(Table 3) above shows that in those Regions with approximately 7.9% of the trust acres, i.e. with little Trust Land area and/or with few small or no reservations, one mile of road serves an average of 104 Trust Acres (with the low of only 53 miles in Eastern Oklahoma). Conversely, one mile of road in those Regions with the vast majority of Trust Acres must serve an average of 794 acres (with the high of 1,369 miles). Similarly, the data shows that the current system is only investing about \$4 per Trust Acre in those regions with the vast majority of Trust Acres, while it invests \$43/Acre or over 10 times as much per Acre in those Regions with approximately 7.9% of the trust acres, i.e. with little Trust Land area and/or with few small or no reservations. The current system is punitive to those Regions with Land Based Tribes who are constrained by reservation borders in geographically isolated areas and is making them poorer and poorer.

Additionally, there is another aspect of the current IRR distribution system that is often overlooked when discussing fairness. This has to do with the TTAM takedowns or set-asides for small tribes. These set-asides are known as the Population Adjustment Factor or PAF and High Priority Projects or HPP. During the rulemaking process from 1999 through 2004, the Land Based Tribes made major concessions in allowing for the creation of the PAF and HPP set-asides as part of assisting small tribes to develop capacity building efforts. The practical affect of these set-asides however are significant reductions to the larger Land Based Tribes. For instance, since the TTAM has been implemented, the total set-asides have been approximately \$106 Million for the HPP and approximately \$50 Million for the PAF for a combined total of approximately \$156 Million. Using Navajo as an example with an average tribal share percentage of 20%, they would have received approximately \$31 Million (.20 x \$156 m) had these set-asides not been in place. Instead, Navajo as well as all larger tribes received none of the approximately \$106 Million set-aside for the HPP and only about \$140 Thousand of the approximately \$50 Million set-aside for the PAF. There are 2 points to be made here; 1) these set-asides were concessions made as part of the negotiated rule making process and

represents a significant relinquishment of program funds. Additionally during this same period of time, Navajo has also experienced an approximate 25% reduction in their tribal share percentage due to the uncontrolled implementation of the road inventory process described above, producing a devastating double jeopardy affect. Many other larger Land Based Tribes have the experienced the same negative impacts, and 2) The practice of prohibiting the larger Land Based tribes from accessing any portion of the TTAM funds (HPP set-aside) is discriminatory and cannot continue.

Unreasonable Formula Outputs:

There are numerous other “anomalies” or formula outputs that question the reasonableness and integrity of the current system. Although there are many, just a few will be listed here:

There is a one person tribe that receives over \$55 Thousand dollars out of the current system,

There is a single tribe that possesses more VMT than 4 Regions have under their entire jurisdiction, which is driven mainly by NHS routes. This particular tribe has approximately 6,400 members has more VMT than every tribe except Navajo which has 185,376 members. This would mean that each tribal person would have to take 183 trips each day to generate this type of VMT number.

There is a village that has seasonal population of 16 members with a cost to construct or CTC value larger than 530 of the tribes and more than that of the Large Land Based tribe of Standing Rock. This same village has over 590 miles in its inventory and has over 30,000 VMT. This is in spite of the fact that there may be 1 or 2 vehicles in the community and there are about 10 miles of existing roads. The remainder is a combination of proposed roads and/or Forest Service roads in a designated wilderness area and the VMT is a result of default ADT values (a concession made by the large tribes during negotiated rulemaking),

It is questionable as to how can this system be acceptable when it recognizes over 8,000 miles of proposed roads in Alaska when the state of Alaska is not allowed to use proposed roads in the STIP formulas? It is unreasonable to think a significant portion of the 8,000 miles of roads will be built in a lifetime, and those that do would not be maintained. Yet these ghost roads or proposed roads are allowed to populate and drive incredible formula values at the expense of other tribes who are not allowed to include proposed roads into their inventories.

As indication that the current system is out of control, the latest inventory data shows a number of urban gaming tribes have begun to take advantage of the IRR program. There are tribes in the California, Seattle, and Minneapolis that have added NHS routes that put their VMT values within the top 15 amongst all tribes. At the same time, these tribes have very small land areas and populations incapable of generating these VMT values, which further indication of non-BIA roads being used to generate

high formula values. What is the rationale of allowing some of the most profitable tribes use State or County roads to beef up their inventory? What transportation needs do they have that the local governments and HUD aren't already meeting?

The final thought in this section has to do with the fact that TTAM formula was used to distribute the ARRA funds which will put approximately 53% of available funds or approximately \$142 million to those 6 Regions with 7.9% of the trust acres with little Trust Land area and/or with few small or no reservations. The vast majority of infrastructure in these 6 Regions is non-BIA owned and there is a strong likelihood that these funds will be put into cooperative agreements to fund State and County just to spend them as part of the strict requirements of the law. How can this be when there are Billions of dollars of backlogged needs on BIA roads on the Land Based Reservations?

Conclusion:

25 CFR Part 170.4 poses the question of "What is the effect of this part on existing Tribal rights?" In (c) of that section the answer is; "This part does not terminate or reduce the trust responsibility of the United States to Tribes or individual Indians." The Land Based Tribes are requesting a congressional investigation into the funding of State and County road systems using Indian Reservation Roads dollars. We desire to expose the very wide and very negative impact this issue has had against the majority of Land Based Indian Tribes all across America. Although SAFETEA-LU made great strides in funding the IRR program, we believe it has also insidiously diminished the sovereignty of Tribes by mandating them to create agreements with states/state entities in order to receive funding which is a trust responsibility of the federal agencies. As mentioned in the 'Other Comments and Concerns' section above, the percentage of funding generated by non-Reservation facilities is nearing Ninety (90) percent. We are concerned that if this trend continues, the IRR Program will cease to exist and Tribes will have to access their Road construction funding through the States. Our recommendation is to remove the language in 25 CFR Part 170 allowing Tribes to include State and County roads in their inventories unless they are part of an approved project and to immediately remove any and all State and County road systems that have been placed on the BIA Indian Reservation Road Inventory under the rule.

The volatility of this formula has made it impossible for tribes to plan a program. There have been fluctuations of \$1M to \$2M a year, both positive and negative for all tribes. How can tribes get flexible financing when they don't know if they will have and IRR program budget in 5 years?

This formula/system may have been manageable if the 2% annual growth rate cap was kept in place as part of the 25 CFR 170. When the 2% annual growth rate cap policy was discontinued upon implementation of the new 25 CFR 170 in 2004, the result has been an arms race, i.e. the miles generating funding in the system went from 33 thousand in 2004 to 120 thousand in 2009 (with no end in sight). Additionally, the Council of Large Land Based Tribes indicated that 25 CFR 170 was a workable rule, however, this is

before 7 of it's' letters went unacknowledged and before it spun completely out of control. It is now clear that there is nobody controlling the system when the same National System State Highway which is allowed to function at 100% producing an approximate \$5 M upswing in one Region yet only being allowed to function at a fraction of that at another Region.

It is absolutely clear that the system will continue to be manipulated and will never be controlled – it is clear that the FHWA has no interest in controlling it since it is their opinion that it has been good to include all these extra miles, since in their view of the problem is that until all the tribes include any / all the inventory updates, they will not intervene and control the situation.

The 6 corrective actions recommended in the 'Other Comments and Concerns' section above may never be implemented without congressional action. Therefore it is critical to correct these problems during the Highway Reauthorization process and failure to do so only perpetuates a flawed 25 CFR 170 rule and formula which has failed to measure relative need while harming the Land Based Tribes in the process.

Ultimately we feel the solution lies in implementation of a formula that cannot be manipulated or mismanaged by FHWA and BIA. With this, **The Coalition of Land Based Tribes** recommends a statutorily mandated formula be contained in the reauthorization bill that is based on 80% Trust Acreage and 20% Trust Land Area for each Tribe.

Although this formula approach will pull funding back from the regions/tribes with little Trust Land area and/or with few small or no reservation based tribes, this is the aim of the Transportation Coalition of Land Based Tribes which has been formed to work to return the IRR program to what the United States Congress intended it to be -- the only source of funding for the transportation needs of Land Based Tribes. Furthermore it must be pointed out that during implementation of SAFETEA-LU, the tribal share percentage for most Land Based Tribes was relentlessly decreased at accelerated rates without warning and certainly without consultation. With this, it would seem irrational to put so much concern into correcting the formula that takes back the ill-gotten gains achieved by the urban/land-less tribes during the past 5 years.

It is very obvious that the uncontrolled manipulation of 25 CFR 170. is having a devastating effect on Land Based Tribes. Since we have previously attempted to correct this unfair manipulation of the regulations to no avail, we feel that we must turn to Congress to return the IRR program back to it original intent.

Respectfully submitted on behalf of the Indian Nations, of the Wind River Reservation.

Mr. Ivan Posey, Chairman
Eastern Shoshone Business Council

Mr. Harvey Spoonhunter, Chairman
Northern Arapaho Business Council

**COMMENTS OF THE
EASTERN SHOSHONE BUSINESS COUNCIL
NORTHERN ARAPAHO BUSINESS COUNCIL
ALONG WITH OUR FELLOW TRIBES
OF THE LARGE LAND BASED TRIBES AND
OTHER LAND BASED TRIBES
OF THE UNITED STATES OF AMERICA**

**IN REGARDS TO
THE COMMITTEE ON INDIAN AFFAIRS DENISE DESIDERIO,**

DETAILEE OF THE MAJORITY

May 12, 2009

INDIAN RESERVATION ROADS (IRR) ISSUES

TESTIMONY OF
THE EASTERN SHOSHONE AND NORTHERN ARAPAHO TRIBES

PRESENTED BY JOHN P. SMITH
TRANSPORTATION DIRECTOR

Before the U.S. Senate Committee on Indian Affairs
Field Hearing on Tribal Transportation
October 15, 2010
Polson, Montana

Introduction

Good afternoon, Mr. Chairman and members of this Committee. My name is John Smith, Transportation Director for the Shoshone/Arapaho Tribes. I am also a member of the Indian Reservation Roads Coordinating Committee formed by various Indian Tribes to help shape federal policy and practice in this area.

On behalf of Joint Business Council Chairmen Ivan Posey and Harvey Spoonhunter, and the people they represent who reside on the Wind river Indian Reservation in Wyoming, I thank you for this opportunity to provide testimony concerning Transportation Issues in Indian Country.

The Federal Lands Highway Program and the Indian Reservation Roads Program represents for us a major avenue through which the United States Government fulfills its trust responsibilities and honors its obligations to the Eastern Shoshone and Northern Arapaho tribes and to other Indian tribes. This program is vital to the well being of all Native people living on or near Indian lands throughout the United States. Because of its great importance, reform of the Indian Reservation Roads Program has become a top legislative priority for many Indian Tribes.

Background on the Wind River Indian Reservation

Compared to other Tribes, the Shoshone/Arapaho Tribes are medium-sized with more than 14,500 enrolled members, most whom live on our Reservation. The Wind River Indian Reservation is located in a rural area within the boundaries of the State of Wyoming. Our Reservation has over 2.2 million acres of tribal land held in trust for our Tribes by the United States. While over time it has been diminished from its original 3.3 million acres, our Reservation has never been broken apart or allotted to individuals and lost to non-Indians. Nor has our Reservation ever been subjected to the criminal or civil jurisdiction of the State of Wyoming. Consequently, our Tribal Government has a large land area over which our Tribe exercises full and exclusive governmental authority and control in conjunction with the United States. At the same time, due in part to our location far from centers of population and commerce, we have few jobs available on our

Reservation. While the unemployment rate in Wyoming is at approximately 11%, unemployment on our Reservation remains at an outrageously high level of 85%. The lack of adequate transportation facilities, communications, and other necessary infrastructure continues to significantly impair economic development and job opportunities.

Although great strides have been made in improving the IRR program under TEA-21 and SAFETEA-LU, several issues have arisen that are negatively affecting the full implementation of the provisions of these Acts as intended by Congress.

Transportation Reauthorization of Indian Programs (TRIP) Act

The Shoshone/Arapaho Tribes are grateful for the leadership role this committee has taken to support the Tribal initiatives in the upcoming reauthorization of SAFETEA-LU. Under this leadership we are certain that the issues and concerns of all tribes will be considered in the reauthorization of SAFETEA-LU. We are thankful for the opportunity to comment on the TRIP Act.

IRR funding serves a crucial need in Indian country. While Congress has increased IRR allocations in recent years, the funding continues to lag far behind an even faster-growing need. When BIA officials abuse their powers and arbitrarily divert IRR funds to non-BIA system or non-Tribal facilities, we fall farther behind.

The Shoshone/Arapaho Tribes has reviewed the provisions of the proposed Reauthorization Bill, published by the Senate Committee on Indian Affairs, to amend the SAFETEA-LU, titles 23 and 49, United States Code, and the Indian Self-Determination and Education Assistance Act also cited as the "Transportation Reauthorization of Indian Programs (Trip) Act".

While we agree with most of the provisions of the proposed TRIP document, we disagree with certain items as contained in the proposed Bill and we also find that there are many on going issues negatively affecting Land Based Tribes that are not addressed in the proposed bill. As such we offer our comments as Follows:

The proposed TRIP Bill as written does not address the issues and concerns confronting the Land Based Tribes regarding the diversion of Indian Reservation Road Program funds meant for the benefit of Indians to non-Indian entities. The percentage of funding generated by non-Reservation facilities is near Eighty (80) percent. We are concerned that if this trend continues, the IRR Program will cease to exist and Tribes will have to access their Road construction funding through the States.

Of particular concern, we see that the injury and death statistics used in justifying funding increases are taken from statistics on roads actually located on "Indian Reservations". While this is all well and good to document the appalling conditions on Indian Reservations, we are dismayed when we see news articles of Indian Tribes giving millions of IRR dollars for construction of Interstate Highways and Bridges. We ask how

does donating IRR funding for construction of an interstate highway address the appalling conditions on Indian Reservations.

We firmly believe that the Indian Reservation Roads Program was established for benefit of Indians living on Indian Reservations. This is a Trust Responsibility of the Federal Government guaranteed by Treaties between Indian Tribes and the Federal Government when Indian Tribes gave up their land and were forced to live on Reservations.

For the past 4 years the Council of Large Land Based Tribes has been attempting to correct the misinterpretation and misapplication by the Bureau of Indian Affairs (BIA) and the Federal Highway Administration (FHWA) of the recently enacted regulation of the Indian Roads Program as contained in 25 CFR 170. This misinterpretation and misapplication manifests itself as the uncontrolled implementation of the road inventory update process which is used to generate formula shares for all tribes. This uncontrolled implementation of the inventory continues to go unchecked and is having a devastating effect on Land Based Tribes located in Montana, Wyoming, Arizona, New Mexico, Utah, the Dakotas and some tribes in Minnesota.

Because of this uncontrolled implementation of the inventory update process, that part of the inventory which generates share amounts for the Land Based Tribes has been significantly reduced from 76% in 2006 to 24% in 2010 and is declining at an accelerated rate.

We feel that the following critical issues are the root cause of the rapid decline in funding for the Land based Tribes and must be corrected in the Reauthorization Bill in order to return this program to what Congress intended it to be.

Based on the above, the Shoshone/Arapaho Tribes have identified several critical items that must be incorporated into a new reauthorization bill in order to make 25 CFR 170 a useable rule that is not biased against Land Based Tribes constrained by reservation boundaries and geographical locations. Those items are as follows:

- *Define Access* – The current statute and regulation does not define “access” nor does it place any limit on to what extent the route can be included in the IRR inventory. Because of this ambiguity, the Bureau of Indian Affairs is allowing tens of thousands of non-BIA miles or non-Tribal system routes into the IRR inventory. These routes include Interstate Highways, National Highway System Roads, State, County and Township Roads, Federal Forest Roads, and proposed roads. Most of these routes are not located within nor do they provide access to Indian or Native lands with some even being located in designated Road less and Wild areas.

- Better define the term “Project” – the current regulations do not define “Project”. Most of the non-Federal roads included in the IRR inventory are generating funding regardless if it is a project or not. The BIA and FHWA are allowing tens of thousands of miles into the IRR Inventory only to generate funding with no intention of ever building a project on these facilities.
- Define Relative Need - We believe that the term “Relative Need” is being misinterpreted by certain tribes and the Bureau of Indian Affairs Central Office personnel. By allowing thousands of miles of State and County Roads in the IRR Inventory (now in excess of 130,000 miles) this does not accurately represent the actual transportation needs of tribes.

How are the needs of a tribe that is located close to Interstate highways, high volume US highways or urban areas and surrounded by high volume roads and streets that are owned by others relative to the needs of a tribe that is located on a remote reservation and whose only source of funding is the IRR program?

Land Based tribes cannot compete with tribes that are located close to urban areas and whose needs are being addressed by other public agencies. A concise definition of “Relative Need” is essential in order to ensure the intention and to improve the consistency of the methodology applied by each BIA Region.

- Restrict Proposed Roads in the IRR Inventory - Proposed roads are being added indiscriminately to the IRR Inventory System. The BIA and FHWA are allowing thousands of miles proposed roads into the IRR inventory only to generate huge funding amounts. The manner in which the BIA is allowing proposed roads into the system is inconsistent whereby certain BIA Regions are allowed into the inventory and other Regions are not.
- Establish an IRR Inventory Oversight Committee - From the uncontrolled and indiscriminate manner in which inventory data is being added into the IRR Inventory, (33+ thousand miles in 2004 to 120+ thousand miles in 2009) it is obvious that neither the BIA nor the FHWA are providing any quality control or quality assurance of the inventory data that is being used to calculate funding for IRR distribution. Or worse, the quality control of the data is disparate or discriminating and is not applied consistently across all tribal data. This is evidenced by the fact that Tribes in certain Regions are being allowed to input fraudulent data only to generate funding. The owning agency has no intentions of doing a project on the route, yet the tribe can put it on their inventory and generate funding indefinitely.

An Inventory Oversight Committee made up of Tribal Transportation Officials must be established to monitor the inventory data that is being submitted. This committee will review all inventory data and will decide what data is eligible to be included into the official inventory.

Indian Reservation Roads Inventory and Its Impact on Funding

Under the negotiated rule making process required by TEA-21, Indian Tribes and the Federal agencies negotiated new rules (25 CFR 170) by which the IRR program would operate. These rules provide the process by which Tribes and the BIA update the inventory of roads and bridges on the IRR system. The negotiated rulemaking process took four and one half years to complete and it took the BIA another two and one half years to publish a final rule. Upon publication of the final rule, we were dismayed to discover that the BIA unilaterally left out or changed critical language affecting the inventory that was included in the proposed rule. The BIA has never explained why it decided, without consultation or involvement of the Tribes, to remove or change regulatory provisions proposed by the tribal negotiation team that would improve the integrity of the inventory system.

It is our understanding that the Indian Reservation Roads Program was established by Congress primarily to fund the construction of roads and bridges on Indian reservations due to the fact that these roads and bridges are considered Federal Facilities and it is the Federal Government's responsibility to construct and maintain these facilities on Indian reservations. We believe that the IRR program should primarily address the construction and improvement needs of roads that are located within or provide primary access to Indian lands and that are not eligible for other Federal, State, or County funding sources. The final rule makes a lot more Federal, State and County supported roads eligible for IRR funding, if an Indian Tribe timely submits the data information required to place a highway on the IRR inventory system. While Congress and the Administration have substantially increased IRR funding, the number of roads that are eligible for funding has been increased at the same time. Some of these roads are eligible for substantial sources of other funding. As a result, roads for which the only source of funding is IRR program are receiving a smaller slice of the bigger funding pie.

When Congress enacted Section 1115 (k) of P.L. 105-178 (TEA-21), we believe it intended that non-BIA or non-Tribal roads within or accessing an Indian reservation were to be included in the Indian Reservation Road Inventory to generate only part of the funding needed to improve those roads. Otherwise, the County, State and other Federal highway budgets would get a windfall. The law is quite specific: "... [F]unds authorized to be appropriated to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under this title of chapter 53 of title 49 and that provides access to or within Federal or Indian lands." 23 USC 120(l). We believe this means IRR funds can only be used to pay the non-Federal share on a state or county route is if it is project funded under 23 U.S.C. 104 and that it is a designated IRR project.

The unilateral BIA decision on the final rule favors those tribes who are located near urban areas, where transportation needs are the shared responsibility of tribes and their neighboring governments and where the Indians are overwhelmingly out-numbered by non-Indian users of these roads. The BIA system for on reservation roads has a documented construction backlog of thirteen billion dollars. In the face of that need, the BIA's unilateral final rule has the result of siphoning off scarce IRR dollars from areas where the greatest need exists.

A study conducted by the National Center for Statistics and Analysis (NCSA) and sponsored by the National Highway Traffic Safety Administration found that Five Thousand nine hundred and sixty-two fatal motor vehicle crashes occurred on roads under the jurisdiction of Indian reservations between 1975 and 2002, an average of 213 fatal crashes per year. In 2002, the number of crashes on reservations reached a new high of 276, representing a 4.5% increase over the previous recorded high of 264 crashes in 1996 and a 52.5% increase over the 181 crashes in 1975. Over the years, these crashes have resulted in the loss of 7,093 lives of which 3,322 were drivers, 2,717 were passengers and 1,001 were pedestrians.

The objective of the study was to examine the characteristics of fatal motor vehicle crashes that occurred on federal lands, specifically, those lands that have been designated as Indian reservations. Using data from 1975 – 2002 NCSA's Fatality Analysis Reporting System (FARS), Characteristics of these crashes were examined to better understand the circumstances that are involved in these particular types of crashes.

Roads on Indian reservations are considered Federal roads due to the fact that Indian reservations are considered Federal lands and the Federal Government is responsible for constructing and maintaining these roads. State and County roads are not considered Federal roads and they have separate funding sources and should not be siphoning off critical funding meant for Indian Reservations. To allow the hemorrhaging of funds away from Land Based Reservation to continue is a travesty and Land Based Tribes will never be able to reduce these tragic statistics.

Rural Tribes, including large land-based Tribes, have expressed their concerns in writing to the BIA and the IRR Coordinating Committee regarding changes to the final rule that have altered the intent of the negotiated rulemaking process. To date, they have received no responses addressing their concerns.

Need for a Tribal Transportation Facility Inventory that is truly "Comprehensive"

The Federal Highway Administration (FHWA) has failed to meet the intent of Section 1119(f) of SAFETEA-LU regarding the conduct of a "comprehensive" National Tribal Transportation Facility Inventory. Despite the mandatory nature of this statutory requirement, FHWA has decided to conduct merely a "windshield survey" sampling of IRR roads. This approach and methodology falls far short of the statutory requirement. We urge the Congress to insist that FHWA complete a "comprehensive" inventory of the IRR system as intended.

The Land Based and rural tribes continue to lose millions of dollars of IRR funding because the BIA and FHLO are misinterpreting the provisions of SAFETEA-LU and 25 CFR 170. The mileage of the IRR system has grown from approximately 62,000 miles in 2004 to over 126,000 miles in 2010. This growth can be directly attributed to the addition of roads that are the responsibility of other public authorities (i.e. States and Counties). It is very apparent that these roads are being added to system only to generate funding for a particular tribe with no intention of ever constructing these roads. We have verifiable proof that many of these roads are being added to the IRR inventory with bogus data. This practice is favoring tribes whose lands are located near urban areas with high volume traffic and is harming rural tribes with large land bases whose system is comprised mainly of BIA and tribal roads. We have tried to correct this problem administratively and have met with no success. Critical funding continues to hemorrhage from Land Based reservations and people to those tribes with high volume State and County roads included in their IRR inventory. The IRR program has become a state and county roads program.

This fact has been further substantiated by the United States Department of the Interior, Office of the Inspector General's evaluation report on the Department of the Interior roads programs, dated February 1, 2010. That report specifically states "*We found significant inaccuracies in roads inventories that affect the ability of bureaus to identify needs correctly and inefficiencies in the process that bureaus use to prioritize their needs*". The report further states "*All bureaus have project implementation plans and the ability to track spending. Two of the bureaus, however, Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), lack sufficient safeguards to adequately detect misuse and mismanagement of funds.* Although the problems have been identified, it appears that the BIA is ignoring these findings and the diversion of critical road construction funding for Land Based Tribes continues.

The issue remains urgent to land based tribes since we deal with critical on-reservation vehicular transportation needs. Our needs arise from tribal and BIA roads, and meeting them relies primarily on IRR funding. The geographic isolation of most land based tribes prohibit them from competing in a system of adding Interstates/NHS highways, State and County roads onto the IRR system just to reap the inflated formula amounts. Also most land based tribes' priorities are not others' interstate or state roads, but the very roads they must travel to get the basic medical and educational services. On the BIA system alone, there is a documented backlog of \$13 Billion just to improve the system to a safe and adequate standard. At present funding levels, and without further deterioration of the system, it would take 28 years to address this need. Allowing State and County roads into the IRR system simply to generate funding is siphoning off critical road construction funding for tribes whose only source of funding is the IRR program.

BIA/FHWA Proposed Fix to 25 CFR Question 10

The BIA and the FHWA are proposing an administrative fix to 25 CFR 170 Appendix C to sub-Part C Question 10. Of particular concern to the Shoshone/Arapaho Tribes is the Bureau of Indian Affairs and Federal Highway Administration's interpretation of certain critical items of Question 10 which we feel are flawed and should be reassessed to ensure that they are interpreted correctly and in accordance with the intent of the original regulation as negotiated and agreed to by the Tribes and the Federal Government. The proposed fix fails to correct the problems that are negatively the Land Based Tribes in that non-BIA system and non-Tribal facilities will still be able to generate funding at 100%.

Also, it is our understanding that a Federal Regulation can only be changed through the negotiated rulemaking process. We find that changing a non-BIA or non-Tribal facility's eligibility from whether it meets the definition of a Federal aid highway to determining eligibility by Functional Classification is a major change in the regulation. We question the legality in this change as well as the matrices for the transition year and the final cannot be implemented as proposed.

Road Maintenance

Protection of the investment in any type of infrastructure requires proper maintenance. Historically, the IRR maintenance system has been chronically underfunded which has caused safety hazards and premature failure of many roads on the IRR system. Roads usually have a 20 year design life but, because of inadequate maintenance, many of the IRR system roads last only about half of their design life and have to be reconstructed much sooner. The BIA is responsible for maintaining BIA system roads; however the funding BIA provides is approximately 25% of what is required to properly maintain the system. The IRR maintenance situation has become even more critical with the increase of IRR funding through SAFETEA-LU. While IRR construction funding is increasing, BIA road maintenance funding is declining.

The BIA Road Maintenance Program has been chronically underfunded under the U.S. Department of the Interior. This program is included in the Tribal Priority Allocation (TPA) and must compete with other Tribal social programs for funding. The funding invested in Road and Bridge Construction on Indian Reservations is being compromised due to inadequate maintenance funding. While funding for Road Construction has increased the amount of funding available for Road Maintenance has declined. Consequently, roads and bridges constructed on Indian Reservations last about half of their design life. The maintenance of these facilities is a Federal responsibility and the health and welfare of Tribal members who have to use these roads is at risk on most reservations.

The BIA receives approximately \$25 million per year as part of its lump sum appropriation for road maintenance activities. BIA now estimates that \$120 million per year is actually what is needed to properly maintain roads on the BIA system. At present

levels, the BIA spends less than \$500 in maintenance funding per mile; most state transportation departments spend approximately \$4,000 to \$5,000 per mile each year on maintenance of state roads. Of course, states receive highway taxes based upon the sale of gasoline within that state. While users of tribal roads pay these same state highway fuel taxes, tribal roads receive little or no benefit from state fuel taxes. Tribes are unable to impose gas taxes in addition to, or in lieu of, those imposed by the surrounding states.

The only practical solution we see for this problem is that since the roads on the BIA system are considered Federal roads, the BIA road maintenance program should be provided extra funds out of the Highway Trust Fund as are other Federal Lands Highway Programs roads.

It seems inevitable that a gas tax increase will be required to fund the nearly bankrupt Highway Trust Fund. If a gas tax is implemented the Shoshone/Arapaho would advocate for a portion of the increase (probably a half or one cent) be set aside for the Federal Lands Programs and include funding for the BIA road maintenance system out of this amount..

Conclusion

On behalf of the Shoshone/Arapaho Joint Business Council, I thank the Committee for its attention to and support for the Indian Reservation Roads program. We have attempted to provide the Committee with a few examples of what is happening with the current interpretation by the BIA and FHWA that is having negative impact on the funding for Land Based Tribes. We are confident that with your help, the IRR program will be restored to what it was originally intended - building and maintaining infrastructure on Indian Lands. Thank you for inviting the Shoshone/Arapaho Tribes to present this testimony. If we can answer any questions, now or at some future date, please do not hesitate to ask.