



Cher-Ae Heights Indian Community of the Trinidad Rancheria



Testimony of

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Cher-Ae Heights Indian Community of the Trinidad Rancheria

Trinidad, California

Senate Committee on Indian Affairs

Oversight Hearing on Tribal Transportation:

Paving the Way for Jobs, Infrastructure, and Safety in Native Communities

September 15, 2011

Good afternoon Mr. Chairman and honorable members of the Committee on Indian Affairs. My name is Jacque Hostler, and I am the Chief Executive Officer of the Cher-Ae Heights Indian Community of the Trinidad Rancheria (referred to herein as the “Tribe” or “Trinidad Rancheria”). I am honored to present this testimony on behalf of the Tribe, and I bring the greetings of the Tribal Council and Tribal Chairman and thank the Committee for this opportunity. While I am providing testimony today solely in my capacity as a representative of the Trinidad Rancheria, my testimony is informed by my experience serving as the Representative for the Pacific Region and Vice-Chair of the Indian Reservation Road Program Coordinating Committee, a representative on the Caltrans Tribal Advisory Committee, the Chairperson of the North Coast Tribal Transportation Commission, and my previous experience as a tribal transportation coordinator and construction manager.



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The Trinidad Rancheria would like to commend the Committee for holding this important and timely hearing and for your continued attention to tribal transportation issues. As reflected in the title of today's hearing, tribal transportation is a critical component of tribal economies and tribal government. Although Indian tribes continue to suffer disproportionately from substantial unmet transportation and infrastructure needs, the Indian Reservation Road (IRR) Program, as implemented under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), has been an important success. The IRR Program in conjunction with other federal transportation programs in which tribes directly participate has enabled Indian tribes to build critical tribal capacity and deliver major transportation projects that improve safety of tribal communities, bring jobs to tribal members and the community at large, support tribal economic development and enhance the delivery of government services. For many tribes, SAFETEA-LU's funding increases and program enhancements have allowed tribes to build lasting improvements that serve the tribal community in all these sectors. Congress' investment in tribal transportation and infrastructure produces solid and meaningful returns and constitutes a critical way for Congress to fulfill its unique trust obligations to Indian tribes.

The achievements Indian tribes have generated through SAFETEA-LU are vitally important to Indian tribes, and we must build upon this record of success and continue to move forward to build a more prosperous and safe future for our tribal communities. We cannot afford any steps backwards.

The Cost of Existing Tribal Transportation and Infrastructure Deficiencies

As the Committee is well aware, there are tremendous unmet transportation and infrastructure needs in Indian country. In order to consider how to improve tribal transportation and infrastructure, we must first recognize the current condition of transportation facilities on the IRR System and the adverse impacts these unmet transportation and infrastructure needs cause to tribal communities.

Indian tribes rely on the roads on the IRR System to travel within our communities, to commute to work and school, to access health care. Our livelihood and welfare depend on these roads, yet an assessment prepared by the Bureau of Indian Affairs (BIA) described the IRR System as the most underdeveloped road network in the United States. The BIA has further estimated that the backlog of improvement needs for selected State and local Indian reservation roads exceeds \$11.8 billion for BIA-owned roads and 9.1 billion for State, Tribal, and locally owned roads. In previous testimony before this Committee, John Baxter, Associate Administrator for Federal Lands for the Federal Highway Administration (FHWA), observed that these conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers.

The BIA further determined that the IRR System is a clear health and safety hazard for tribal communities and an impediment to meaningful economic development. A federal traffic safety study shows that Indian tribes suffer the highest per capita traffic

facility rates in the United States – more than four times the national average. A report prepared by the National Highway Traffic Safety Administration observed grimly that, although the number of traffic fatalities is declining nationally, the number of fatal crashes on Indian reservations has increased by 52.5 percent. Data indicate that American Indians also have the highest rates of pedestrian injury and death per capita of any racial group in the United States. As alarming as these statistics are, they do not adequately convey the true human and economic toll, which tribal communities know too well.

Economic indicators underscore the need for job creation on Indian reservations, and tribal transportation projects can bring not only construction jobs but also spur economic growth within tribal communities. Nearly one-quarter of Native Americans live in poverty compared to a national average poverty rate of 11.6%. The BIA's Indian Labor Force Report also calculates that 49% of the total Indian labor force living on or near reservations was unemployed. The economic situation faced by the Trinidad Rancheria reflects these statistics. We are located on the remote north coast of California, which has struggled for some time with the loss of jobs in the logging and forest products industry and the commercial fishing industry. Unemployment for the Tribe is 52%, and bringing jobs to this economically distressed areas is a top priority for the Tribe.

Achievements Realized Under SAFETEA-LU

Expanding Access and Building a Foundation

Prior to SAFETEA-LU, the IRR Program was a smaller program that served a relatively narrow slice of the national tribal transportation needs. Many tribes, especially in California, were not able to participate directly in the IRR Program and their transportation needs were not addressed through the program. Congressional action in TEA-21, the IRR Program negotiated rulemaking and funding increases in SAFETEA-LU have opened participation in the IRR Program to ***all*** tribes, with funding to be allocated according to relative need and construction challenges. The Indian Reservation Road System (IRR System) was similarly opened up to include all public roads that provide access to Indian reservations and Indian and Alaska Native communities, regardless of road ownership.

These changes have enabled tribes throughout the United States to develop transportation programs to plan and deliver projects that tackle long-standing transportation and infrastructure needs. For example, on the Trinidad Rancheria, the annual funding we receive from the IRR Program has enabled the Tribe, for the first time, to establish a tribal roads department, conduct a thorough inventory of the roads eligible for the IRR System, assess the Tribe's transportation and infrastructure needs, and develop a tribal plan to address these needs. Thanks to SAFETEA-LU, the Tribe has developed the capacity to administer its own roads program through a direct program agreement with the FHWA, and, as discussed below, it has allowed us to develop major transportation projects and leverage the additional funds necessary to deliver these

projects. We are also better able to coordinate with federal, state and regional transportation agencies.

Planning and Building Projects and Delivering Jobs

SAFETEA-LU authorizes tribes to identify their transportation needs, develop a tribal transportation improvement program, and plan and deliver transportation infrastructure projects. Indian tribes have used this authority to develop their capacity to carry out these functions, and the records maintained under the American Recovery and Reinvestment Act (ARRA) demonstrates the internal capacity tribes have established.

In 2009, Congress appropriated \$310 million to the IRR Program (the “ARRA IRR Program”), above the annual IRR Program funding for FY 2009. The BIA and the FHWA have reported that 99 percent of the ARRA IRR Program funds were obligated on 518 projects and that 94 percent of these funds were obligated through contracts or compacts with Indian tribes. Under the ARRA IRR Program, Indian tribes developed and submitted the ARRA transportation improvement plans to fund 20 bridge projects, 1,300 road construction projects covering 1,300 miles of road, 17 transit projects, 60 road maintenance projects, and 320 design projects. The success of the ARRA IRR Program shows that not only is there a great unmet transportation infrastructure need, but that Indian tribes have the capacity to plan and deliver these transportation projects.

The Trinidad Rancheria is pleased to report that the Tribe has recently commenced construction of a major transportation infrastructure project to replace a deteriorating transportation facility - the Trinidad Pier. This project, which is funded through a combination of federal, state, and tribal funds (including the IRR Program and the IRR High Priority Program), is currently providing significant construction jobs and supporting the employment of local and regional suppliers. Moreover, the reconstructed pier will anchor the tribal and local regional economy by supporting the jobs of commercial fishermen, recreational fishing businesses, various harbor businesses operated by the Tribe (e.g., a restaurant, tackle shop, and boat maintenance facilities), and the local hospitality industry. Additionally, the project will benefit the unique marine environment in Trinidad Harbor and help develop employment in the growing environmental tourism industry.

Below are examples of transportation projects several member tribes of the North Coast Tribal Transportation Commission have delivered, or are in the process of delivering, which provide jobs and address the significant transportation needs.

- The Yurok Tribe's Bald Hill Road Paving Project was a joint Yurok Tribe-Humboldt County project utilizing multiple funding sources, including Recovery Act funding.
- The Karuk Tribe receives its IRR funding through a direct agreement with the FHWA. Construction on Itroop Road became a top priority when surface cracks on that road increased to more than 8" wide and threatened the viability of this

- sole access route for residents of a multi-unit single family tribal housing community.
- The Smith River Rancheria conducted one of the first tribally-led Road Safety Audit/Value Engineering (RSA/VE) study in which a state DOT, county government and FHWA fully participated. The study involved on-site field visits and inspections at all hours and in different weather conditions in order to experience, first hand, the road traffic and safety conditions at play.
 - In the absence of public transit services in its region, the Blue Lake Rancheria Tribe, working closely with CalTrans, the California Highway Patrol, local hospitals and other groups, made public transit a reality. Thanks to funding from FTA's Tribal Transit Program, by 2010, the Tribe was providing 17,000 one way rides a year.
 - The Hoopa Valley Tribe has implemented the Bald Hill Stabilization Project to prevent closure of an emergency exit from the Reservation and avoid a lengthy detour for residents, extended Redwood Grove Road for residential development, and developed a project study to provide crosswalks, sidewalks and medians on the Reservation.
 - To enhance safety, the Elk Valley Rancheria has designed underpasses and trail corridors to accommodate pedestrians and cyclists crossing highway 101 and is coordinating with a wildlife scientist to incorporate elk crossing features.

These examples represent a small sample of transportation projects being delivered by Indian tribes. They all highlight the ability of rural tribes to deliver major projects to economically distressed areas.

Partnering and Coordination

Partnerships and coordination among tribes and between tribes and state and local agencies are a necessity for many tribes, especially in California where the IRR Program funding is relatively limited. SAFETEA-LU has provided tribes with the resources necessary to develop such relationships. By working together, tribal programs are leveraging their internal capacity, and by coordinating with state and regional agencies, we are able to leverage our funding resources and plan projects that are mutually beneficial. On the North Coast of California, we have formed the North Coast Tribal Transportation Commission, which has eight member tribes who work together on common interests, provide mutual technical assistance, and coordinate with the local regional transportation agencies and the California Department of Transportation. Our tribal transportation commission has successfully built a number of productive partnerships. The Commission's successful collaboration has been recognized by the Director of the California Transportation Commission and received a Federal Highways Exemplary Human Service Award.

Improving and Building Upon SAFETEA-LU

While SAFETEA-LU has advanced important policy and program opportunities, in many respects it has showed us how much remains to be done. Indeed, experience has shown that the funding and scope of tribal programs in SAFETEA-LU are insufficient to make sufficient progress addressing transportation needs on the ground. In order to more fully address the unmet infrastructure and safety needs of Indian tribes we need to build upon the progress made in SAFETEA-LU.

For several years a broad cross section of Indian tribes have worked with the National Congress of American Indians (NCAI) and the Intertribal Transportation Association (ITA) joint task force to develop a consensus set of tribal priorities for the reauthorization of SAFETEA-LU. These consensus priorities are set forth in the National Tribal Leadership Paper on Tribal Transportation Priorities (“White Paper”), which has been adopted by both NCAI and ITA. The Committee on Indian Affairs clearly recognizes the significance of such a broad intertribal consensus on these issues, and, in 2009, the Committee Chairman released draft legislation which largely tracked these provisions. Below are some of the key priorities identified in White Paper.

Funding

While we understand that it is a difficult time to increase funding for any government program and that many programs are facing budget cuts. However, there is a strong justification providing an increase to the IRR Program. In addition to the unmet need, Indian tribes have suffered from historical funding inequities. Although Indian Reservation Roads make up nearly three percent of the federal roadways, they receive less than 0.5 percent of the total federal highway funding. The funding inequities are even sharper when the funding for tribal programs is compared to the funding provided to states. For example, at the current funding levels, the IRR Program receives only about half the amount per road mile that states receive. Moreover, there is evidence that states, who receive federal funding for their own roads that fall within reservations, do not fulfill their obligation to improve or maintain these roads.

Any reduction to the IRR Program funding would seriously impair the ability of Indian tribes to deliver actual projects on the ground. Under the SAFETEA-LU funding levels for FY 2009, tribes with relatively small transportation programs must cobble resources together from a number of sources and over several years to carry out solely the design and permitting phase of a major project. If IRR Program funding is not increased or even diminished, many tribes may be precluded from delivering major projects. Not only would this breach Congress’ trust obligation to tribes, it would undermine the tribal government capacity which has been built under SAFETEA-LU.

Direct Access to a Broader Range of Federally Funded Programs

Transportation safety is DOT’s highest priority, yet the data clearly indicates that Congress and the Administration have not succeeded in reducing the appalling rate of traffic fatalities in Indian country. Under SAFETEA-LU Congress authorized \$1.275

billion in FY 2008 alone for State-administered High Risk Rural Road Program, and nearly \$700 million for the NHTSA-administered Highway Safety Programs. However, tribal governments, who face the greatest growing highway safety problem, have not been able to access these programs. To effectively combat the factors that contribute to highway accidents in Indian country, tribes must be provided direct access to these programs, and to accomplish this the White Paper recommends establishing a two (2) percent tribal funding set aside within the High Risk Rural Roads Program and creating new tribal traffic safety programs with FHWA and the National Highway Transportation Safety Administration (NHTSA).

Maximize the Federal Investment

There is general agreement within Congress and the Administration of the need to reduce bureaucratic hurdles that impair efficient program administration and to increase program flexibility. This is particularly important for Indian tribes, which have extremely limited program budgets. The Indian Self-Determination and Education Assistance Act (ISDEAA) has a proven record as an effective and accountable way to reduce administrative costs and studies show that programs administered under ISDEAA have become engines for economic growth in their communities. Congress has sought to extend greater authority to tribes to carry out the Indian Reservation Roads (IRR) Program under ISDEAA agreements with the Bureau of Indian Affairs and direct program agreements with the Federal Highway Administration. By increasing the scope of the programs that can be included in ISDEAA agreements, Congress can maximize federal investment in roads infrastructure and to put more people to work.

In particular, we support extending the ISDEAA agreements to all Department of Transportation (DOT) programs serving tribes, including programs administered by the Federal Highways Administration (FHWA), FHWA-Federal Lands Highway, Federal Transit Administration, National Highway Traffic Safety Administration and other federal transportation agencies. The FHWA has successfully implemented direct program agreements with tribes, and the program has grown quickly over the last two years. Based on this experience, we believe that DOT would be able to establish and implement a successful tribal transportation program under the ISDEAA and we support extending such a program to DOT.

Streamline Environmental Review and Permitting Processes

The Administration and Congress have noted that it takes far too long to deliver a transportation project and have indicated support for streamlining the environmental review and permitting processes for transportation projects. The Trinidad Rancheria wholeheartedly agrees. Because many tribal projects depend on both federal and state funding, or involve transportation facilities located on state rights of way, tribes must often comply with overlapping federal and state environmental review and permitting requirements, which can delay projects for years and result in significant additional costs for even modest projects. The Tribe supports the protection of environmental resources and we have undertaken several projects to reduce existing impacts to the environment.

However, there must be balance, and we respectfully urge the Committee to work with the Senate Environment and Public Works Committee to ensure that Indian tribes benefit equally from any efforts to streamline these requirements for state projects. Additionally, tribal projects should not be burdened with any additional state requirements or costs that are not imposed on projects implemented by state or local government agencies.

Conclusion

On behalf of the Trinidad Rancheria, I thank the Committee for your continued attention to tribal transportation issues. Tribal transportation is a critical component of tribal economies and tribal government. The opportunities created by SAFETEA-LU and the Recovery Act have led to numerous important successes in which tribes have improved safety of tribal communities, brought jobs to tribal members and the community at large, supported tribal economic development and enhanced the delivery of government services. We look forward to the Committee's continued effort to build upon these successes in the coming transportation reauthorization.