

**INVESTING IN NATIVE COMMUNITIES:
TRANSFORMATIVE OPPORTUNITIES IN THE
INFRASTRUCTURE INVESTMENT AND JOBS ACT**

FIELD HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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JUNE 28, 2022
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TUESDAY, JUNE 28, 2022

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Prior Lake, MN.

The Committee met, pursuant to notice, at 11:00 a.m. CST in the Minnetonka Conference Room, Mystic Lake Center of the Shakopee Mdewakanton Sioux Community, the Hon. Tina Smith presiding.

**OPENING STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Good morning. The Committee will come to order.

It is meaningful to convene this Committee hearing on the sovereign lands of the Shakopee Mdewakanton Sioux Community and I thank the Tribe for their generosity in hosting us.

We are in the Minnesota River Valley, which has been the home to the Dakota people for many generations. This place that is now called Minnesota is the ancestral home of the Dakota and Anishinaabe people, and other indigenous people, who have lived in and cared for this beautiful part of the world for millennia.

In this hearing, it is important to understand the government-to-government relationship between Minnesota tribes and the Federal Government. This is a relationship based on the Constitution, the laws and treaties between the United States and sovereign tribal nations, and it is our responsibility to respect and recognize these treaty responsibilities.

In this spirit, I am proud to serve and represent Minnesota's tribal nations and urban indigenous communities on the Senate Indian Affairs Committee and on all the committees that I serve. I take this work seriously, because I have heard time and again from tribal leaders who have been frustrated by policy decisions being made without Native voices at the table.

I know that the Biden Administration understands this and has taken a strong stance that the government-to-government relationships with tribal nations will not be taken for granted. The appointment of Secretary Deb Haaland to the Department of the Interior is historic for this reason. We were honored to welcome Secretary Haaland to Minnesota earlier this spring. During her visit

she met with, I believe all of Minnesota tribal leaders, almost all, in a historic gathering that Senator Klobuchar and I also attended, along with Lieutenant Governor Flanagan and Representative McCollum.

Being a partner for Minnesota tribes in Washington is a great honor for me, so I am very glad to chair this field hearing, and to welcome Assistant Secretary Newland, Acting Director Fowler, and Mr. Baumann from the Federal Government, to Minnesota to discuss the infrastructure priorities of tribal nations in Minnesota.

I want to note that the last field hearing of this Committee in Minnesota took place at White Earth, where Senator Al Franken highlighted the importance of addressing the needs of tribal schools, especially Bug-O-Nay-Ge-Shig. In that field hearing, Senator Franken and then-Chair Byron Dorgan of North Dakota highlighted the appalling conditions at the school and others like it.

After that hearing and with great perseverance by the Bands and Senator Franken, the school received a \$16 million grant to rebuild. This is what happens when the Federal government-to-government relationship works and when we hold field hearings like this one. We can start in these hearings to address the historic wrongs against Native and Tribal communities.

So it is fitting that our topic is infrastructure, and especially how President Biden's Infrastructure and Jobs Act can benefit tribal nations. It is fitting because the Federal Government has long failed to live up to its promises and trust responsibilities to provide the roads, bridges, broadband, drinking water, and wastewater systems that Native communities need.

For decades many Native communities have experienced the direct negative impacts of Federal underinvestment and underfunding of critical community infrastructure. Many roads in Native communities are primitive or in poor condition, hurting safety and hampering economic development. Native communities lag behind the rest of the Country in accessing broadband services. Just 46 percent of housing units on tribal land have access to fixed broadband. Native American households, particularly those on trust lands, are 19 times more likely to lack indoor plumbing, contributing to a significant disparity in health outcomes.

Tribal nations are rich with cultural and economic opportunities, but it is difficult or impossible to realize these opportunities without adequate infrastructure. With these disparities in mind, the Infrastructure Investment and Jobs Act that passed at the end of last year is a transformational investment for all of Minnesota, and for tribal nations. It is the largest long-term investment in our Nation's infrastructure and competitiveness in a generation, and the biggest investment in infrastructure on tribal lands.

The Infrastructure Bill will bring billions of dollars to Minnesota for roads and bridges, broadband, water infrastructure, and much more. And it must work for tribes, also.

The purpose of this hearing to understand how these transformational infrastructure investments can benefit tribal nations in Minnesota. This bill has \$13 billion for tribal-specific programs and set-asides. I am committed to making sure these resources are equitably distributed and accessible to tribal nations, and that it can make a lasting impact.

These \$13 billion will help address the longstanding infrastructure inequities in tribal communities that impact the health and economic well-being and safety of Native peoples. Here are just a few highlights.

There is \$3.5 billion for Indian Health Service sanitation facilities that will make drinking water safe and improve sewage and waste disposal systems. There is \$3.8 billion for roads and bridges on tribal lands, to make roadways safer for cars and pedestrians. There is \$2 billion for broadband on tribal lands, which will improve access to education, telehealth, and economic opportunities. There is \$200 million for climate resilience, so that tribal nations can plan for and implement responses to climate change.

This bill can be a turning point for how the Federal government partners with Tribal Nations. I will do everything I can to support the work of Minnesota tribal nations to access these dollars.

The tribal leaders who are here to testify today will speak directly to their priority projects, but I would like to lay out some broad priorities they have already shared. First, grant funding needs to be equitably distributed and accessible to tribal governments. Especially for smaller tribes, Federal applications and reporting requirements can be burdensome, and it often is difficult for smaller tribes to get access to even compete for these resources, even though their needs are great.

It is also deeply challenging for tribes to be put in a position of competing with each other for infrastructure investments that they all need, and that have historically been underfunded. Through a robust consultation process, we need the Federal agencies overseeing distribution of funds to consider these challenges and to resolve them.

Second, funding needs to be flexible. I strongly believe that these leaders and the governments they oversee, which are closest to the needs of their communities, know best what will work in their communities. We need to listen to them and create the flexibility they need to accomplish the most they can with the resources they have.

Third, Minnesota tribes are ready to lead the way, they are already leading the way on clean energy and sustainability. We had an opportunity, Chairman Anderson, to see a little bit of what the Shakopee Mdewakanton community is doing with the organics facility. It is just one example.

We can learn a lot from these smart, bold ideas that Minnesota tribal nations have been tackling on climate change, reducing emissions and putting their communities at the forefront of a clean energy future. From organics recycling to solar arrays, electric vehicle charging to PFAS mitigation, tribes in Minnesota are ready to put infrastructure funding to use to address this existential threat of climate change.

I hope that this hearing will be an opportunity for our witnesses to engage with one other and with Congress to celebrate the opportunities for Indian Country in the Bipartisan Infrastructure Law, and to make sure this funding is equitably accessible and distributed to tribal nations across the Country and in Minnesota.

Before I introduce our witnesses, I would like to extend a thank you to Chair Brian Schatz and Vice Chair Lisa Murkowski of the Senate Indian Affairs Committee. Although they are not with us

today, I am grateful for their partnership, and for allowing this important field hearing to happen in Minnesota today. They both have a strong commitment to advocating for American Indian, Native Hawaiian and Alaska Native people. I am grateful for their leadership

I also want to take a moment to thank staff, Connie Tsosie de Haro, and Breann Nu'uhiwa, from the Senate Indian Affairs Committee, for being with us today. And also thank my staff, Ravyn Gibbs and Anna McCloskey, for helping to put this important hearing together. A lot of work has gone into this, and I am quite grateful.

I am now going to introduce our witness panel. We will start with the tribal leaders and come to the Federal Government witnesses. I would like to introduce first the Honorable Keith Anderson, Chairman of Shakopee Mdewakanton Sioux Community, Prior Lake, Minnesota; the Honorable Melanie Benjamin, Chief Executive Officer of the Mille Lacs Band of Ojibwe; the Honorable Cathy Chavers, Chairwoman of the Bois Forte Band of Chippewa, in Orr, Minnesota; and the Honorable Robert Larsen, "Deuce" Larsen, President of the Lower Sioux Indian Community in Morton, Minnesota; and the Honorable Kevin Dupuis, Chair of the Fond du Lac Band of Lake Superior Chippewa, Cloquet, Minnesota.

In addition, we are grateful to recognize our Federal Government witnesses, the Honorable Bryan Newland, Assistant Secretary of Indian Affairs, U.S. Department of the Interior, Washington, D.C.; Elizabeth Fowler, who is Acting Director of the Indian Health Service, U.S. Department of Health and Human Services, and Jeremiah Baumann, Chief of Staff, Office of the Under Secretary for Infrastructure, Department of Energy, Washington, D.C.

Thank you very much. We will start with the Honorable Keith Anderson.

**STATEMENT OF HON. KEITH B. ANDERSON, CHAIRMAN,
SHAKOPEE MDEWAKANTON SIOUX COMMUNITY**

Mr. ANDERSON. Thank you, Senator Smith.

I am going to run right into the oral piece of the letter that we had sent you earlier on our project. I want to thank you for the opportunity today to speak in support of the Federal investments in tribal infrastructure.

As you have seen earlier today, my tribe, the Shakopee Mdewakanton Sioux Community, is guided by our Dakota values. This includes a tradition of living in harmony with our surroundings as all tribes do, and sharing our natural and material resources in abundance that we have with our neighbors. Our infrastructure, particularly all of our projects that help to protect the environment, is a big part of our commitment.

Today I wish to highlight one noteworthy project that we had started years ago, approximately 10 years ago. It is called the Organics Recycling Facility. This was born out of a project that didn't start out to be just what it is, it was going to be much more. But I think our neighbors and even the State aren't ready for source separated laws, and materials that are required to be disposed of in certain ways. We haven't gotten to that.

But as we call it, the ORF, that is the acronym for the Organics Recycling Facility, it is the natural process of breaking down our organics and the materials that would have been tossed into a landfill. Instead, we produce a high-quality compost and compost blends and mulch. We sell those products or donate them to local schools, cities, and non-profits. We have quite a list of those.

From 2013 to 2020, the ORF accounted for 23 percent of all organic material composted in the Twin Cities metropolitan area. So a few years back, the Minnesota Pollution Control Agency set a statewide goal of recycling 75 percent of waste by the end of 2030. That is an ambitious goal to be met, and it can only be met if our facility dramatically expands its capacity.

Our tribe is currently in the permitting phase to relocate the ORF to a new and more industrial location on our land in nearby Louisville Township. Our new ORF facility will be able to process up to three times the food waste we now handle. It will also incorporate the latest technology for efficient production odor containment.

It will include a stormwater and PFAS, which is polyfluoroalkyl, it is a substance that comes from products that get into plastics and smaller pieces that might be in contamination, but you get it to a grind and compost small enough that it just becomes something you want to be able to contain should it rain. We want to prevent these chemicals from migrating into the groundwater in the Minnesota River.

So we greatly appreciate your support of our \$2.5 million request for Congressionally directed spending for community project funding in the Fiscal Year 2023. This would provide an 80 percent Federal matching contribution against the roughly \$3 million stormwater system costs that we are going to incur. It is a component of our \$20 million overall project cost.

So we were pleased to see that last week, that the same \$2.5 million request of our representative, Angie Craig, has been included in the House Committee on Appropriations draft list in the 2023 projects to be funded. We hope you are able to persuade your colleagues to include the same request in the Senate's draft Fiscal Year 2023 appropriations bill.

Senator Smith and members of the Committee staff here today, the SMSC is grateful for the opportunity to showcase some of our projects and highlight some of our infrastructure that we have rebuilt on our homelands. We look forward to working with you and the Committee on mutual government-to-government commitments and the rebuilding of Indian Country infrastructure.

I want to make a point before I end. We are very, very fortunate here at Shakopee. But that doesn't mean that that carries forward to the rest of the tribes in Minnesota, or even the region and across the Country. For every one of us, there has to be at least 20 or more gaming facilities that provide the intent of tribal gaming, for jobs and for adding to the coffers. But they need all the help they have ever gotten; they need even more. Their needs are greatly unmet. I think this would be the start of something that would be very helpful for tribes across the Country.

Pidamaya, thank you very much.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF HON. KEITH B. ANDERSON, CHAIRMAN, SHAKOPEE
MDEWAKANTON SIOUX COMMUNITY

Introduction

Good morning. Thank you for this opportunity to testify on the need for federal support for the development of infrastructure in Indian Country so that all tribal communities can catch up to the rest of America.

Welcome

Welcome to our reservation, where the ancestors of our community of Dakota people have lived for hundreds of years. And where we have cared for what we call U'ci Mak' a, or Grandmother Earth, as we have hunted wild game, fished in its rivers and lakes, and aligned our lives with its changing seasons. This reservation is our home and we cherish it, which is why we work so hard to make sure the infrastructure we need does not destroy the very earth that sustains our tribal Community.

Background

Throughout history, Dakota culture has focused on the values of living in harmony with our surroundings and sharing our natural and material resources with our neighbors. These values continue to guide our tribal government decisions and our Community life today.

In living out our culture, intertwined as it is with our natural surroundings, the tribal government of the Shakopee Mdewakanton Sioux Community, or SMSC, uses the latest science and technology to help protect and restore wetlands, aquifers, soils, air sheds, prairies, and forests, and to protect and encourage the ability of native plants, animals, and insects to make our lands their home. As a result, our reservation is home to land stewardship programs, different green technologies, and an organic garden, all of which enhance our commitment to a healthy environment.

SMSC Infrastructure

Being a good neighbor, good employer, and good steward of the earth is a core part of who we are and what we do. Through partnerships and collaborations, we seek to embody Dakota values of helping others. All this would not be possible without our tribal government's strong defense of tribal sovereignty. Our sovereign authority as a federally recognized tribal government is the key to our efforts toward self-sufficiency.

The appropriate use of infrastructure, in the right places and in the right ways, is essential for our tribal Community to survive and thrive. That's why our tribal government has contributed millions of dollars to, and partnered with, neighboring governments to provide for mutually beneficial regional infrastructure such as roads, water and sewer systems, and emergency services. We share this earth with our neighbors, and together we must care for it.

There are many examples of SMSC's commitment to enhancing infrastructure, from our state-of-the-art regional wastewater plant to our highway safety improvements to our fire, rescue, and medical emergency response equipment and services. But today, I wish to highlight just one, noteworthy project—our SMSC Organics Recycling Facility and some of the exciting new plans we have for this tribal enterprise.

SMSC's Organics Recycling Facility Infrastructure

The SMSC Organics Recycling Facility, or ORF, is a unique project that our tribal government has operated for more than a decade on our reservation. The SMSC ORF reflects our Dakota tradition of care for the earth by recycling organic waste into useful materials through the use of innovative infrastructure investment.

The ORF uses natural processes to break down organic material to produce compost and compost blends for retail and wholesale purchase. The resulting compost product is a nutrient-rich, natural fertilizer for gardening, farming, and landscaping. We also process wood to be used as mulch. Basically, we take what may have been tossed in a landfill and instead create high-quality compost, compost blends, and mulch.

The ORF regularly accepts yard waste, Christmas trees, and Halloween pumpkins for free from Scott County residents who have, since 2013, made more than 40,000 deliveries to our facility. The SMSC ORF also provides commercial customers as well as neighboring governments and school systems in our region with the opportunity to dispose of their paper, food scraps, tree stumps, and yard waste

sustainably and productively.¹ Our facility's close proximity to these metropolitan sources of waste means that our supply customers and hauling companies lower their carbon footprint, saving drive time and fuel costs. And, of course, our facility also recycles and repurposes organic waste from the SMSC's many tribal departments and enterprises on our reservation, including this Mystic Lake Center, the Mystic Lake Casino Hotel, Little Six Casino, and our natural food market Mazopiya.

The SMSC ORF markets its composted products widely. It also donates compost soil and mulch to neighboring cities, schools, and nonprofit organizations. While minimizing waste is a significant benefit of composting, our compost and mulch products also improve soil structure, increase nutrient content, and work to ward off plant disease. Fertile soil has far greater moisture retention, allowing gardeners, landscapers, and business owners to use less water.

Our SMSC ORF recycles an average of 70,000 tons of organic material each year on our 24-acre site, including 11,000 tons a year of source-separated organics, or SSOs. Ours is one of only two large-scale composting facilities processing source-separated organics in the Twin Cities metropolitan area. From 2013–2020, the ORF accounted for 22.9 percent of organic material composted in the metro area.

In 2017, the Minnesota Pollution Control Agency adopted the Metropolitan Solid Waste Management Plan for the Twin Cities metro area that set a goal of recycling 75 percent of waste, which calculates to be a minimum of 616,000 tons of organics, by December 31, 2030. This ambitious goal can be met only if SMSC ORF dramatically expands its capacity.

The SMSC ORF Relocation and Expansion Infrastructure Project

The SMSC recently announced that we have acquired industrial land in Louisville Township, nearby our main reservation, where we intend to relocate our SMSC Organics Recycling Facility in 2023. The relocation project is currently in the approvals and permitting phase, and the SMSC tribal government is actively collaborating with the Township, Scott County, and the Minnesota Pollution Control Agency in a mutually beneficial permitting process. Construction is expected to begin spring of 2023. The 60-acre site is zoned for heavy industrial uses and is located adjacent to the Dem-Con Landfill, the Bryan Rock Products Quarry, and the Renaissance Festival site.

We have decided to relocate the SMSC ORF to increase our capacity to meet the metropolitan-scale demand for its services. The SMSC General Council, the highest governing body of our tribal government, has authorized a multimillion-dollar investment of tribal funds in order to enable this ORF relocation and expansion. Our new ORF facility will be able to process up to three times the food waste we now handle, part of an annual total of 172,000 tons of organics including 35,000 tons per year of SSOs, when fully built out.

Our new ORF will incorporate the latest technology and processes for state-of-the-art odor containment and efficient production, including an aerated static pile system and a storm water management system to contain polyfluoroalkyl substances, or PFAS. The diversion of organic waste from landfills to the new SMSC ORF will reduce carbon dioxide equivalent emissions by an estimated 21,000 metric tons per year at full capacity. Part of our relocation plan also involves making infrastructure improvements to the Highway 41 intersection, adding turn and by-pass lanes on Highway 41 near our site.

The SMSC understands the value of investing in advanced technology to keep up with growing demands while eliminating harmful chemicals. A stormwater/PFAS management system is vital for organics recycling because the technology prevents PFAS from migrating into drinking water as well as the rest of the environment. The tribe's new facility will be located in an industrial area next to the Minnesota River valley, which requires additional protections to prevent chemicals from entering the groundwater and nearby surface waters. Stormwater/PFAS management will be a critical part of these protections.

Senator Smith, the SMSC greatly appreciates your support of our \$2.5 million request for FY 2023 congressionally directed spending or community project funding.

¹ Scott, Carver, Dakota, Hennepin, Ramsey, and Washington County governments have used the SMSC ORF. As have the cities of Apple Valley, Arlington, Belle Plaine, Bloomington, Brooklyn Park, Burnsville, Chanhassen, Cologne, Columbia Heights, Eden Prairie, Edina, Golden Valley, Henderson, Hopkins, Hutchinson, Inver Grover Heights, Le Sueur, Lonsdale, Maple Grove, Mayer, Minneapolis, Minnetonka, Northfield, Norwood Young America, Plymouth, Prior Lake, Rosemount, Savage, Shakopee, St. Louis Park, St. Paul, Victoria, Waconia, Watertown, Woodbury. The ORF has also served agencies including the Metropolitan Airports Commission, Prior Lake-Savage Area Schools, Ramsey/Washington Recycling and Energy, Shakopee Public Schools, Shakopee Public Utilities Commission, St. Paul Academy & Summit School, and Three Rivers Park District.

The amount we have requested would provide an 80 percent federal matching contribution against the \$3.125 million stormwater system cost component of the SMSC's \$20 million overall project cost. The federally funded stormwater reclamation system will reuse all water runoff on the new ORF site (approximately ten million gallons annually) and allow the new ORF site to operate without discharges off-site even in extreme rainfall conditions.

We were pleased to see just last week that the same \$2.5 million request of our Representative, Angie Craig, has been included in the House Committee on Appropriations draft list of funded FY 2023 projects, and we hope you, Senator Smith, along with Senator Klobuchar, are likewise able to persuade your Senate colleagues to include that same \$2.5 million request in the Senate's draft FY 2023 appropriations bill in the coming weeks.

SMSC will use this federal funding investment to complete the water reclamation system in our new ORF facility, providing a regional example of how best to protect surface water and ground water while operating an organics recycling facility when handling organic materials which may contain PFAS and other elements that give rise to environmental concerns.

Conclusion

Chairman Schatz, Ranking Member Murkowski, Senator Smith, and members of the Committee, the Shakopee Mdewakanton Sioux Community is honored to host this field hearing on our reservation. We are grateful for the opportunity to showcase some of the infrastructure that we have rebuilt in our homelands. And we look forward to working with you and the Committee on expanding our mutual, government-to-government commitments to the rebuilding of Indian Country infrastructure. Thank you.

Senator SMITH. [Phrase in Native tongue.]
Chief Executive Benjamin?

STATEMENT OF HON. MELANIE BENJAMIN, CEO, MILLE LACS BAND OF OJIBWE

Ms. BENJAMIN. Aaniin, Boozhoo. Good morning, Senator Smith and Members of the Committee. Miigwech for this opportunity to testify how Federal infrastructure investment can best help restore our Native homelands.

As we talk about more Federal investment in tribal infrastructure, it is important that we consider the historical context. Until the 1990s, there was hardly any Federal support for infrastructure in Indian Country. The old joke was, you could tell where the reservation begins by where the pavement ends. We have a lot of catching up to do, and are grateful to you, your colleagues and the Biden Administration for making sure tribes were included in this historic legislation.

In my written testimony I describe several projects we hope will soon be turned into reality for our Band communities. For example, special Federal funding is needed for our water and sewer extension project in the town of Isle. This will correct a disappointing decision by the town and Federal agencies to completely bypass our tribal neighborhood when the town expanded its water and sewer system.

Senator Smith, we are grateful for your support of our request and your current efforts to persuade your colleagues in the Senate and House to appropriate the funds that will correct this modern-day miscarriage of environmental justice. Thanks to your efforts, we are partnering with Pine County to expand broadband service into underserved households and communities. Within the next two years, many of our Band members in Pine County will gain access to affordable, reliable and high-speed fiber broadband service. This

will allow for innovative tele-health services, remote work, educational opportunities, and economic connections.

We are also grateful for your support of Federal funding to renovate and construct a business incubator building in Hinckley so we can support new and diverse businesses within our tribal economy. We are excited to see the return on these investments.

These are some very exciting developments, but I will close with a request for caution. The Mille Lacs Band is very concerned about the impact of climate change on our environment and has already experienced its effects. Our pine and our maple trees are moving farther north, changing the habitat for our plants, animals, foods, and medicines. Even our ceremonies have been impacted because some plants we require are now much harder to find.

Lawmakers are pursuing policies that support what they call a green economy in an effort to slow climate change. But too often throughout history, the solutions to problems in this Country have been at the cost of Indian tribes and people. We saw it with the railroads that crisscrossed our hunting and fishing grounds, disrupting our way of life. We saw it with toxic air and water pollution from transportation, farming, manufacturing, and electrical power production. And in our Great Lakes region, we have seen it from mining.

Senator Smith, our people, our water, fish, and wild rice must not be treated as collateral damage to be sacrificed in the name of pursuing what some call green economic development. I speak of a proposed nickel-cobalt mine located in Tamarack, Minnesota. The mine is being promoted as a way to fuel electric vehicles which are seen as the silver bullet that might slow down climate change.

The batteries for these cars currently require nickel. But there are only a handful of known places in the United States where high quality nickel has been found. This site is only 1.3 miles from the Mille Lacs Bands and the homes of our tribal members in District II.

The process of removing nickel from the earth is one of the most toxic and dangerous forms of mining in existence. There is very strong pressure from Federal, State, and industry to get that nickel out of the earth. The Mille Lacs Band of Ojibwe wants to be a part of the solution to climate change. But we cannot jeopardize the safety and welfare of our people, our drinking water, our lands, and our resources to solve a problem we did not cause.

We ask the Senate Committee on Indian Affairs to assist the Mille Lacs Band in ensuring that infrastructure development for the Country does not mean environmental injustice for us.

In conclusion, I want to say Miigwech to you, the Congress, and the Biden Administration for enacting the Infrastructure Investment and Jobs Act, and especially for the emergency scale infusion of Federal funding and authority into tribal communities. There is a stunning amount of backlogged need on our reservation and throughout Indian Country. The new infrastructure law is a promising good start and a better path to better opportunities for tribal communities, so we can catch up to the rest of America.

Miigwech, Senator Smith, for holding this hearing in Indian Country, and for your support of our initiatives. We look forward to our continued partnership with the Committee on these issues.

[The prepared statement of Ms. Benjamin follows:]

PREPARED STATEMENT OF HON. MELANIE BENJAMIN, CEO, MILLE LACS BAND OF OJIBWE

Aaniin, Boozhoo (Greetings in Ojibwe). Good Morning, Senator Smith and Members of the Committee. My name is Melanie Benjamin and I am the Chief Executive of the Mille Lacs Band of Ojibwe. We have three districts in east-central Minnesota: District I is located on the shores of Mille Lacs Lake; District II is located near McGregor, Minnesota; and, District III is located near Hinckley, Minnesota.

Miigwech (thank you in Ojibwe) for this opportunity to testify on how federal infrastructure investment can best support the restoration of our Native homelands.

Our Mille Lacs Reservation was established by the 1855 Treaty with the Chippewa, which set aside more than 61,000 acres along Lake Mille Lacs for the Mille Lacs Band. In the decades that followed, our ancestors refused to yield to the federal and non-Indian pressures trying to force them to abandon our Reservation homelands. Even when our Reservation homes were burned down, our villages flattened, our timber cut down and stolen, and our agriculture and other property destroyed, our ancestors stood their ground. As a result, we became known as the Non-Removable Mille Lacs Band of Ojibwe.

As we today look at the promise of federal investment in our Reservation infrastructure, we must acknowledge that, for far too long, railroads and other infrastructure investments were a one-way street that facilitated the theft of our Reservation resources. As a few members of this Senate Committee on Indian Affairs noted in a report in 1900, 122 years ago: “Out of the tangle of verbiage of which treaties, laws, and rulings are composed[,] the Indians of the Mille Lac Reservation are able only to realize that somewhere in their dealings with the white race bad faith has been extended to them.”

Today, the Mille Lacs Band is committed to partnering with the federal government to change this; we need to make federal infrastructure investment in and around our Reservation a two-way street for the mutual benefit of the Mille Lacs Band and our neighbors. I want to describe several projects we hope will soon be turned into reality in our Reservation Tribal communities.

Isle Water/Sewer Extension Project

In the last two decades, the Town of Isle, which is within our Mille Lacs Reservation, has secured federal and state infrastructure funding to build and rebuild its municipal water and sewer system. Unfortunately, the Town’s plan, and the federal and state funding for it, completely by-passed a Tribal neighborhood in Isle populated mostly by Band member households. In a time when environmental justice is in the spotlight, this was extremely disappointing. Many Band members continue to rely on well water as their primary source of drinking water and this critical water source has at times been compromised by septic system and groundwater contamination, posing significant health and safety risks to our community.

Consequently, the Mille Lacs Band has requested congressionally directed spending for a special, Mille Lacs Band Isle Water Extension Project that will construct a water and wastewater system to connect the existing Isle municipal system with our Tribal neighborhood in Isle.

The Band’s Project will connect approximately 85 Equivalent Dwelling Units (EDUs) near the intersection of Minnesota State Highways 27 and 47 east of Highway 169. Our project is currently in the design phase but will be ready to build in 2023 if funded in FY 2023. It supports the goals of the Safe Drinking Water Act by ensuring the responsible and sustainable development of water and wastewater infrastructure, both of which are essential for Band members and non-Indians who reside within the City of Isle and must otherwise rely on shallow wells for drinking water. It also supports the Clean Water Act by protecting Mille Lacs Lake, one of the largest and most popular trophy fishing lakes in Minnesota that also contains valuable, treaty-protected fish and water assets held in federal trust for the Band. It will relieve pressure on lake ecosystems created by recent lakeshore development and will enhance public health by protecting drinking water from septic system and groundwater contamination.

The Band’s Isle Water Extension Project is a \$5,307,000 project, for which the Band is requesting \$4,245,000 in FY 2023 congressionally-directed spending to add to the Band’s 20 percent matching contribution. Miigwech to you, Senator Smith, for joining with Senator Klobuchar in supporting our FY 2023 request for congressionally-directed spending. We hope your colleagues in the Senate and House will agree with you that this modern-day miscarriage of environmental justice must be quickly rectified.

Pine County Broadband Project

Since the Band and its neighbors share some rural areas that have been chronically under-served by communications infrastructure, the Band joined with Pine County in requesting FY 2022 congressionally directed spending to expand broadband service into more remote areas of Pine County where over 4,800 people live and where hundreds more visit and work at St. Croix State Park, St. Croix State Forest, the Band's Pine Grove Academy, the Band's Health and Human Services facility, and many other small businesses and resort communities. We were quite pleased when Congress agreed to fund our FY 2022 request as supported by Senators Smith and Klobuchar, in the amount of \$5,576,250. Miigwech for your leadership on this, Senator Smith. As a result, in the next two or so years, many of our Band members in Pine County will gain access to affordable, reliable and high-speed fiber broadband service for innovative telehealth services, remote work, educational opportunities, and economic and social connections.

Tribal Economy Business Incubator Project

The COVID-19 pandemic devastated Tribal communities across America and revealed to a broader audience the weakness of Indian Country economies. Decades of underdevelopment have created outsized consequences and disparities within Tribal communities.

In our region, studies show that public administration is the only growing base industry sector. There is widespread interest in increased entrepreneurship and in growing the number of locally owned businesses and creating paths for start-up success. This takes facility space and communications infrastructure, both of which we lack on our Reservation.

In response last year, the Band requested \$1.3 million in FY 2022 congressionally directed spending to renovate and construct a business incubator building in Hinckley to enable the creation of new businesses, build wealth, help establish a robust entrepreneur ecosystem, create greater industry diversity within the Mille Lacs tribal economy, and help historically underrepresented persons build wealth and better participate in the broader economy. This infrastructure resource is reducing barriers to entrepreneurship, boosting the economic and social wellbeing of the region, particularly for Mille Lacs Band members, and supporting the ongoing development of our community as a whole.

We were so pleased earlier this year when Congress appropriated \$1.3 million in the FY 2022 budget to fund the request made by Senators Smith and Klobuchar in support of our Tribal Economy Business Incubator Project, to which the Band contributed an additional \$822,300. We are eager to see the return on these investments. Miigwech to you, Senator Smith, for making this possible.

Tamarack Talon Mine

I will close with a word of caution. The Mille Lacs Band of Ojibwe works very hard to be a progressive government. We believe in finding new and innovative ways of making progress for our people and surrounding communities. We need our Reservation infrastructure to catch up to the rest of America. As the original environmentalists, we welcome the growing concern about the environment and how to best battle climate change caused by human activity.

However, plans that some might define as "progress" can literally overrun a way of life and a culture. We saw it with the railroads that crisscrossed our hunting and fishing grounds, disrupting our way of life. We saw it with toxic air and water pollution from exploding transportation, farming, manufacturing, and electrical power production. And in our Great Lakes region, we've seen it from non-ferrous mining of minerals and precious metals.

Our challenge today is that we are finding we must battle to preserve our environment here at home because it is being treated as mere collateral damage that others are ready to sacrifice in their effort to battle climate change and pursue greater economic development. I speak of the proposed nickel-cobalt mine in Tamarack, Minnesota. That mine is to be located within a mile or two of the Mille Lacs Band lands and the homes of our Tribal members in District II. It is being promoted as a way to fuel electric vehicles which are seen as a "silver bullet" that might slow down climate change. The batteries for these cars currently require nickel. And there are only a handful of known places in the United States where nickel has been found—right where our precious water, fish and wild rice have sustained our culture and people for generations.

The process of removing nickel from the earth is one of the most toxic and dangerous forms of mining in existence. Nickel mining has a 100 percent track record of polluting the environment. This Talon Mine project is being watched around the world. There is very strong pressure from federal, state, industry and international

interests to get that nickel out of the earth. Our water, fish and wild rice—our way of life—are all in the way.

As Anishinaabe, it is our sacred duty to take care of the gifts the Creator gave us. The Mille Lacs Band of Ojibwe wants to be part of the solution to climate change. But we will not jeopardize the safety and welfare of our people . our drinking water . our lands . and our resources . to solve a problem we did not cause. Infrastructure development must not sacrifice indigenous rights.

As the Mille Lacs Band government, we will do whatever is necessary to protect our environment and cultural resources . because like our language . they are critical to our identity. Along with being caretakers of our language and culture, being caretakers of the earth is who we are. We ask that the Senate Committee on Indian Affairs assist us in ensuring that infrastructure development does not destroy us and our way of life.

Conclusion

The Infrastructure Investment and Jobs Act provided an emergency-scale infusion of federal funding and authority to Indian Country. The Mille Lacs Band strongly supported its enactment and is actively engaged in helping federal agencies to implement it effectively. There is a stunning amount of backlogged need on our Reservation and throughout Indian Country. Overcrowded, remote and aging buildings demand replacement. All-weather transportation facilities are critically needed for year-round public safety, education, jobs, and commerce. Green energy networks must be adapted and extended to rural, remote Tribal community locations. Antiquated communications systems on Reservations must be brought into the 21st century. New water and sanitation systems are essential for our health and the health of the environmental resources held for us and future generations by our trustee—the United States government.

Isolated Tribal communities from rural Minnesota to villages in Alaska deserve a better chance of connecting to the health, educational, employment and market resources enjoyed by the rest of America. The Infrastructure Investment and Jobs Act is a promising, good start on the path to better opportunities for Tribal communities. It is now up to us to run this race to catch up to the rest of America. We have made great progress in recent decades but we have much, much more to do.

Miigwech, Senator Smith, for holding this hearing in Indian Country and for your support of our initiatives. We look forward to our continued partnership with the Committee to ensure that our tribal communities have equitable access to infrastructure resources and equitable justice in protecting our environment and resources.

Senator SMITH. Miigwech, Chief Executive Benjamin. Thank you. Chair Chavers, welcome.

STATEMENT OF HON. CATHY CHAVERS, CHAIRWOMAN, BOIS FORTE BAND OF CHIPPEWA

Ms. CHAVERS. Thank you, Senator Smith. Ahneen, Boozhoo. My name is Cathy Chavers and I am the Chairwoman of the Bois Forte Band of Chippewa. I am also the current President of the Minnesota Chippewa Tribe which includes the six Chippewa bands; White Earth, Mille Lacs, Fond du Lac, Leech Lake, Grand Portage, and Bois Forte. I am very honored and humbled to be testifying to you today on the Infrastructure Bill.

I just want to briefly give you a little information about Bois Forte. We are a small, rural tribe located in northeastern Minnesota, 50 miles from the Canadian border. We only have approximately 3,500 tribal enrolled members. We have three sectors of our reservation which located many miles apart.

I have been the tribal chair and on the council since 2016 but I have worked for the tribe for over 30 years in healthcare and education also. I have witnessed how the Band and other tribes have struggled with the inadequate funding throughout all our programs in the many years I have worked.

I would like to talk about the flexibility and the ability to have the guidelines that are going to be set forth by the Infrastructure Bill to allow tribes to use it in a manner that meets our needs and not what the government feels our needs are. The reason is right now, we have a sewer system at one of our communities, Indian Point, that we want to pipe underneath the lake to put our sewer system into the city of Orr sewer system. I don't know if any of those categories would fit that, but that is a unique need that Bois Forte has.

The tribes are unique with the needs that we have for infrastructure. Due to inadequacies of funding throughout the years, basically we don't have the infrastructure in place that we need to have. We have individual septic systems that need upgrade. We have a community where 20 to 30 of our drain fields are failing, but we don't have funding to fix them.

So when you are talking about smaller tribes in rural Minnesota, I really applaud the accomplishments of these tribes that have talked before me. We don't have those opportunities. We have critical needs at Bois Forte because we don't have the data for applying for grants. We don't have the staff.

The monumental amount of money that we received from ARPA and the COVID pandemic and now the Infrastructure Bill is really placing a hardship on our staff with reporting requirements, all the backlog of data that we need that we can't get. The financial part of it is really stressing out our accounting department. They are overwhelmed.

We have 300-plus grants within our small tribe that we have to manage along with our small accounting staff to do the ARPA, the COVID and now the Infrastructure Bill. Administrative costs would be very helpful for smaller tribes to get the staffing that we need to help with that big backlog of work that is involved with these monies.

The other thing is that when we apply for all these grants, please don't make them competitive. We shouldn't have to compete against our neighbors. With smaller tribes, we don't have the staff. People wear many hats at small tribes.

We need GIS services, for example, at Bois Forte. We can't get the data to fill in for some grants or applications that we want to apply for, because we don't have it. It is very expensive. We are very remote. We are not near a city. We are 65 miles from a city.

So water and sewer, we also have ponds that need to be expanded. In order to get more housing, there is such a lack of housing in northeastern Minnesota, we need more infrastructure, more water and sewer put in. But our ponds also need to be expanded. IHS has their SDS list, but their funding is inadequate to meet that need. They help us so much with so little money, but they need a lot more to even get us to where we can actually manage our own programs and help our people out. It takes many years to get the need on the SDS list through IHS to even get us to where we need to be today.

Climate resiliency, because Bois Forte is so small, we don't even have a program that deals with climate resiliency. We don't have the staff. We need an updated water quality lab. We have the best wild rice in the world, and our dam is in the process of failing. If

we lose our dam, we lose our lake, it will drain our lake, we will lose our rice and there will never be Nett Lake wild rice again.

Our fish ladders are not working. We are working, we declared a state of emergency on our dam. The waters have flooded up north in northeastern Minnesota. Last year was a drought. Mother Nature plays her many courses with us.

But we need a lot. Small tribes need a lot. Rural tribes need a lot. Our roads are inadequate. We need equipment. Sometimes we can't purchase equipment. We need a grader for our reservation roads so our tribal members can go hunting and gathering in the woods for their traditional medicines and berries.

We just need adequate funding and resources to deal with climate change and resiliency. How is it impacting our wild rice? How do we do that?

Workforce is another issue that is really affecting the tribes. We can't recruit any staff in rural Minnesota. We can't compete with the outside world. We can't. We just cannot get the adequate people that we need to run our programs. We need change.

So what I would like to say in my testimony today is that some of the items I just listed are some inadequacies we have at Bois Forte. I have tried to list some of the important ones, like GIS, our dam. But we really need the flexibility, and we also need a formula that will work for all tribes.

Bois Forte just acquired 28,000 additional acres in the past two weeks from the PotlachDeltic Corporation. We are a timber industry up north, we have lots of trees, and mosquitos. Huge mosquitos. But the thing is, if land base is going to be used, I am not sure what the formula is for this distribution or how it is going to be distributed, tribes need input on that. Because right now, that land is not within the BIA registry. It was just two weeks ago. But that was the largest land acquisition in Indian Country, in this Country and in the State of Minnesota.

But I just want to say that we very much appreciate all the recent funding opportunities that we as tribes have been able to get. It has been almost like Christmas for us every day. We have never had that much money to deal with as tribes. We have always been dealing with inadequacies and making our dollars stretch. It has been very unusual.

But as Chairman Dupuis has always said, we have been the most regulated people when it comes to programs and services. We make the best of whatever funding or situations that arise.

So I hope that through our testimony today that you will listen to the tribes, their accomplishments, and us tribes that don't have the resources, people, or funding to do the things that we want to do.

Again, Chi Miigwech, thank you very much for allowing Bois Forte's voice to be heard in this testimony today. Thank you.

[The prepared statement of Ms. Chavers follows:]

PREPARED STATEMENT OF HON. CATHY CHAVERS, CHAIRWOMAN, BOIS FORTE BAND
OF CHIPPEWA

Boozhoo Ahneen, my name is Cathy Chavers and I am the Chairwoman of the Bois Forte Band of Chippewa. I am also the current President of the Minnesota Chippewa Tribe which includes the six Chippewa bands; White Earth, Mille Lacs,

Fond du Lac, Leech Lake, Grand Portage and Bois Forte. I am very honored and humbled to be testifying to you today on the infrastructure bill.

I want to briefly tell you some information about Bois Forte, just so you have an idea of who and where we are located. Bois Forte is located in extremely rural northeastern Minnesota. We have approximately 3600 enrolled tribal members enrolled within our tribe. There are three sectors of the reservation located many miles apart which include the Vermilion sector, located near Tower, Minnesota, the Nett Lake Sector which is the main sector of Bois Forte and the Deer Creek sector that has no tribal members living there. We have approximately 500-600 people who reside in Vermilion and Nett Lake. A majority of our tribal members live in the state of Minnesota.

I have been the Tribal Chairwoman for Bois Forte since 2016 and worked for the tribe 30+ years in the areas of education and healthcare. We know that historically the federal government has not fulfilled their trust responsibility. Throughout my years as a tribal leader and employee, I have witnessed the band struggle with inadequate funding throughout all our programs. Historically, this lack of funding has created great inadequacies and disparities throughout all bands. These shortfalls are especially prevalent in the areas of tribal infrastructure.

Due to the pandemic, we as tribes have seen instrumental and substantial amounts of funding that have never been seen before. What we have learned from this historic funding that we have received from the U.S. Treasury for the pandemic and issuance of ARPA funding, is that the tribes would benefit from consultation on how the determination of funding is decided. As we have experienced with the various formulas that were initiated from the US Treasury, some tribes benefit, and others do not. This infrastructure funding for the betterment of Bois Forte should be based on square miles, acreage, etc. and not just solely on census data or population. Government agencies need to consult with tribes to get a better understanding of our limitations in various aspects due to inadequate funding such as additional administrative costs being allowed. The need for federal agencies will fund programs new or existing but do not provide adequate funding for administration and operating costs for programs to continue and be successful. These costs are then the responsibility of the tribe which the tribe cannot sustain, or support and the tribe loses the program which was very much needed. Sad to say but this is an ongoing issue for many tribes.

With the infrastructure bill, we need to be allowed to have the administrative costs to add additional personnel to assist the tribes with these various funds being allocated. A small tribe as Bois Forte does not currently have the capacity due to current ARPA funding and now with new funding to be appropriated. Our current staff is stressed and current out with the additional workloads, responsibilities and reporting requirements from the previous pandemic funding to have to take on more work. Another way to help tribes is to make funding categories and uses more flexible to meet the needs of the tribes. Tribal needs are at times unique situations that do not fit into the federal governments categories to expend the funds. Tribes have limited staffing capabilities to also apply for any competitive grants. It also is not in any tribe's best interest to have to compete for grants against ones another. There needs to be noncompetitive grants allocated or a non-restrictive direct allocation (which Bois Forte prefers) to the tribes bypassing the federal agencies bureaucracy. Too many times funding is allocated late with short timelines for spending and or too many obstacles/hurdles to jump through to access the funding.

I will be breaking down Bois Forte's comments within the following categories:

Critical Needs

I am not sure if you are aware of Bois Forte's recent land acquisition of 28,000+ acres of land within the reservation boundaries this past week or two. We are extremely excited but will also need to import our newly acquired land acreage into our BIA inventory list. If infrastructure funding for roads is based upon existing inventory, it would be critical for Bois Forte to get this new land into the current inventory list.

One area that is extremely critical for Bois Forte is GIS. We currently do not have the funding, equipment or resources to have this very valuable service which is needed for all areas of infrastructure such as precise road inventory data, water and sewer shut off markings, allotment and parcel boundary markings for example. We need this important data for any type of grant and other funding opportunities in Bois Forte's future. We currently lack in the areas mentioned when applying for funding.

Energy

Due to our rural location and having limited access to energy resources, we can see the need for more energy efficiency opportunities such as LED lighting for all reservation buildings, programmable HVAC systems to allow for controllable heating and cooling after employee hours to reduce heating and cooling costs, back-up generators, HVAC replacement and funding for replacement parts and labor due to old and inundated equipment.

Bois Forte would be extremely willing to have solar farms in multiple locations throughout the reservation, but that would require the electrical infrastructure grid to be updated throughout the entire reservation and perhaps electrical substations to be built close to the reservation. We are working closely with our local electricity providers to work on the issues that we both have currently and for years to come.

Renewable energy, electric cars and charging stations in and around Bois Forte is a high priority as well. There currently are no charging stations available on or near the reservation, so this is very much needed. We currently have a Housing area of approximately 30 homes that has outdated and inadequate electrical boxes to meet any car charging needs in the future.

We also need extensions of our emergency siren alert system for emergencies to our current communities in Nett Lake and Vermilion, plus upgrades and additional communities to ensure the safety and lives of our families. Helipads in both Nett Lake and Vermilion communities for access of Life flight-air ambulance is also a priority as the nearest trauma center is over 100 miles away.

Water and Sewer

Bois Forte abides by the Clean Water Act under federal law. Infrastructure needs in the area of water and wastewater is an extremely high need at Bois Forte. We see the dire need for future expansion of our water and wells throughout the entire Bois Forte Reservation, Nett Lake and Vermilion communities. Expansion of water and sewer, pond expansion, sewer replacement, failing drain fields in our housing area where there is no funding to replace them. We do have as SDS list through Indian Health Service however funding for these projects can take years from now. We have various types of housing, such as HUD, low rent, tax credit, recreational, private homeowners.

Current water and wastewater systems also need to be established to provide additional housing in our area. Lack of adequate housing and apartments contribute to difficulty in recruiting employees to fill open positions and no place for families to live. We have been tasked with providing for the next seven generations according to our culture but without the proper and updated infrastructure that will hinder this immensely.

We realized that we need collaborations and partnerships with area towns, municipalities etc. An example of how this can happen is the Indian Point community sewer system. This system is and has been a problem at Bois Forte. We will have the opportunity to if given the funding to connect to the waste system in the City of Orr to alleviate this problem. This would entail installing a underground piping system under the lake to the City of Orr to connect. Orr's current system is only at 25 percent of its full potential. We can also connect our neighbors as well to enhance our area for housing. As a smaller tribe we look to our neighbors and others as we know that we cannot do many things on our own due to our small size and funding shortfalls or restricted requirements for funding.

Climate Resiliency

Bois Forte is what we consider to be rich in natural resources with our vast amount of forest, streams and lakes. Nett Lake is well known for having the best wild rice in the world. We have our lake that grows our wild rice where we do not allow any type of motorized vehicles on our lake which allows our rice to be considered "organic". Our current dam that controls the lake is failing along with our fish ladder and we are barely maintaining preventative measures to keep the dam from totally failing and then emptying our lake which in turn will be the end of Nett Lake wild rice forever. We have failed to find funding to properly address this project, due to this, our own DNR department is going to install rock arch dam which will allow the fish to get to the lake and will be less mechanical and more natural.

We currently do not have funding or resources available to work specifically with climate change. We consider ourselves a tribe rich in our natural resources but not rich financially. In order to deal with climate resiliency, we need adequate funding to update our current water quality lab and other resources to develop this type of program. At Bois Forte, we have no one dedicated to this extremely important issue.

Workforce

Workforce development has turned into a huge and difficult issue at Bois Forte. We are located 65 miles from any city one way on where to recruit staff for various positions. This is especially difficult in rural areas. The pandemic brought broadband to the forefront for teleworking, meetings, telemedicine and schooling. There is and always will be a need for broadband especially with upgrades to equipment, supporting data infrastructure software and much more. Bois Forte currently has an aging workforce and limited funding for educating and getting qualified staff in technical areas such as IT, water and wastewater operators, wildlife biologists, GIS and support staff in the areas of administration such as accountants. It is difficult for small tribes to compete with off reservation entities that can offer more pay and other perks or benefits. Programs for technical training would be welcomed with open arms and on reservation would alleviate the transportation issue that is in rural areas. Bois Forte is trying to implement succession planning for our organization but again lack of funding is a barrier.

Summary

The items listed in my testimony are just some of the inadequacies we have at Bois Forte. I have tried to list some of the more important infrastructure projects but there are more and always will be more. I appreciate and again am honored to be able to testify today on behalf of Bois Forte but also on behalf of the smaller rural tribes who struggle to meet their community's needs. We are very much appreciative of the recent funding opportunities, as this again is very unusual for us in Indian Country. We have been the most regulated people when it comes to programs and services, and we make the best of whatever funding or situations that arise.

Again, Chi Miigwech (Thank you very much) for Bois Forte's voice to be heard in this testimony today.

Senator SMITH. Miigwech, Chair Chavers. Thank you very much. We will now turn to Chair Dupuis, from Fond du Lac. Boozhoo.

STATEMENT OF HON. KEVIN DUPUIS, SR., CHAIRMAN, FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

Mr. DUPUIS. [Greeting in Native tongue.] Hello, everybody. Miigwech for this hearing. It is good to see everybody. Senator Smith, thank you so much, members of the Committee.

I can't believe I am going to say this, but I have to say it. I don't know what the protocol is, but I am going to give up my time for this today. You have my white paper. I have always spoken what I believe I need to speak and how I should say it. I never read from a piece of paper.

But where we are today with this, we have 11 tribes in the State of Minnesota. Again, you received our white paper, so you know the concerns of Fond du Lac and what we have with that. It is an opportunity for all 11 tribal leaders that could be here. Hopefully in the future we can set this up again in a manner so they are all here to speak.

I don't know what the protocol is, but I would like to give up my time for the representative for Upper Sioux, if that is possible. Miigwech.

[The prepared statement of Mr. Dupuis follows:]

PREPARED STATEMENT OF HON. KEVIN DUPUIS, SR., CHAIRMAN, FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

Chairman Schatz, Vice Chairwoman Murkowski, and respected members of the Committee, I am Kevin Dupuis, the Chairman of the Fond du Lac Band of Lake Superior Chippewa. On behalf of the Fond du Lac Band of Lake Superior Chippewa, I would like to thank you for inviting me to testify. We submit this testimony in support of the significant and much needed funding provided in the Infrastructure Jobs Act (IJA).

As we talk about funding for infrastructure in Indian country, it is essential to keep in mind that the problems that communities face nationwide are far more severe for Indian communities. Tribes have greater infrastructure, economic and social deficits than other populations and historically have been left behind when it comes to ensuring federal funding at levels necessary to build basic infrastructure. Even in February of 2020 before the COVID-19 pandemic started, Native Americans had a higher unemployment rate than other racial groups, with a 7.5 percent unemployment rate.¹ According to 2016 census data, the median household income of American Indian and Alaska Native households in 2016 was \$39,719 compared \$57,617 for the nation as a whole.² That data showed Native American poverty at a rate of 26.2 percent compared to 14 percent for the rest of the population.³ Native Americans have also historically lacked access to clean water and sanitation infrastructure.⁴ An estimated one in ten Native Americans lack access to clean water or basic sanitation.⁵ The Fond du Lac Band has worked, and will continue to work, to find solutions to problems of this kind and we appreciate Congress' recognition of and support to meet the needs for more infrastructure funding in Indian country. We hope this is a trend that will continue.

When we have resources to address our infrastructure needs, the Band has been able to make significant strides in improving the conditions on our Reservation that will continue to have positive impacts on the health and welfare of our members. We have proven time and time again that we know how to leverage federal funding to the maximum extent possible and build successful, but much needed, projects. For example, prior to the COVID-19 pandemic we were successful in applying for and receiving multiple grants to complete a "Fiber to the Home Network" throughout our Reservation. This project was critical in helping us when the COVID-19 pandemic erupted and our members had to switch to remote learning and working. By becoming our own Internet service provider, we have been able to control rates to make sure they stay affordable for our community. This has made a significant difference in ensuring access to such an important and needed infrastructure service for our members.

We have also been successful in utilizing federal funding to build up our Food Sovereignty Infrastructure. Our mission is to build a sovereign, holistic food system, which is rooted in Anishinaabe values that is environmentally responsible and empowers a thriving resilient community. We have been slowing building and expanding our capabilities since 2009 as resources have allowed. We cannot have food sovereignty without basic infrastructure to support a growing tribal community. We have had to develop agricultural infrastructure, including farm development, food processing and storage facilities, as well as secure and developed water capabilities. We have also been able to develop and built a geodesic growing dome and have invested in equipment infrastructure.

This infrastructure has been critical to not only ensuring that our members have access to healthy foods given the significant increases in food costs and inflation but is helping to improve the health outcomes and build resiliency for our members. Since the beginning of 2022, we have held multiple feasts, harvested over 500 pounds of produce from our geodesic green house, supported our Farm to School program and Elderly Nutrition Program with farm fresh produce, and hosted workshops, tours and community groups. There are over 40 producers participating in our producer training program in partnership with Fond du Lac Tribal Community College, and about eight of those producers have created businesses or are selling at farmers markets. We provide weekly classes and have opportunities for our members to gain hands-on experience in environmentally sustainable farm development practices, including on a small home-level scale.

We are excited about the opportunities that the IJA provides to continue to build on our successes, though we are still working on fully understanding all those opportunities. We applaud the Administration's on-going efforts to implement the IJA and assist tribes in accessing funding. We also appreciate Congress' interest in en-

¹ <https://www.brookings.edu/blog/the-avenue/2022/02/09/despite-an-optimistic-jobs-report-native-data-shows-native-american-unemployment-remains-staggeringly-high/>. Native Americans are recovering slowly. In January 2022 the unemployment rate among Native American workers was 11.1 percent, well above 4.4 percent for the rest of the economy. *Id.*

² <https://www.census.gov/newsroom/facts-for-features/2017/ai-an-month.html>.

³ *Id.*

⁴ <https://www.latimes.com/world-nation/story/2021-06-26/native-americans-clean-water>

⁵ <https://www.theguardian.com/us-news/2021/apr/28/indigenous-americans-drinking-water-navajo-nation>; See also <https://www.kunc.org/environment/2021-12-08/many-tribal-homes-dont-have-clean-water-and-the-road-to-getting-it-is-lined-with-hurdles> (estimated 49 percent of tribal homes lack access to clean water or sanitation)

suring careful implementation of the IJA and have several recommendations to make infrastructure funding more accessible to tribes.

First, the Band recommends federal agencies provide training and technical assistance on how tribes can coordinate and best leverage the many opportunities available. The IJA contains an enormous amount of funding that requires significant amounts of staff time just to identify the various applicable funding sources a tribe may utilize for potential projects of interest. Having liaisons assigned for each agency to tribal regions to assist in sorting through and identifying these opportunities and how to access them would help ensure tribes are able to utilize these funds to their fullest potential. In addition, while the Band appreciates the many updates and webinars that the White House and federal agencies host to discuss the IJA, it is difficult to attend all of the meetings when they are scheduled. It would be helpful if these updates and webinars could be recorded and made available to tribes. Moreover, many of these announcements only go to tribal leaders and this information needs to reach our staff. It would be helpful if agencies had a dedicated website that tribes can regularly check to access these updates and webinars.

Second, infrastructure funds need to be available in a more holistic way that considers the way in which funding from multiple programs can be leveraged and utilized to fund a single tribal project that has many elements, only some of which are eligible for certain funding sources, but other elements would also qualify for other funding sources. A more holistic application process would cutdown on award time, confusion, and deadlines and it would help tribes to better articulate their needs and how the various programs rely on one another. One approach could be modeled on the Department of Justice's (DOJ) Coordinated Tribal Assistance Solicitation (CTAS). The CTAS approach streamlines the process for tribes by promoting long-term planning to ensure tribal program alignment and simplifying applications by requiring one descriptive narrative about the particular tribe, and then each program submits its specific project description. This model would serve the programs authorized by the IJA well because federal agencies could coordinate funding initiatives to ensure that awards meet overall tribal goals. Additionally, this would better allow tribes to leverage available funding programs for a global project. In furtherance of this, funds should be provided in Block Grants or 638 contracts to the maximum extent possible.

Third, communication needs to be more streamlined. There are a variety of deadlines which tribes must track across agencies for funding, and many tribes must do this in an already understaffed capacity.⁶ The current approach to communication with tribes has been somewhat piecemealed and comes out of various agencies and programs. Having a central place where tribes can track each federal agency's upcoming deadlines for funding, with links on where to access more information for the specific funding opportunity that is regularly updated, would help all tribes currently struggling to meet the capacity needs of tracking all of the various funding opportunities. This could also help the various agencies better coordinate overlapping deadlines and consultations. One positive example is recent emails that get distributed by the U.S. Treasury Department regarding information, funding deadlines and updates for the American Rescue Plan Act. Those emails have been very helpful and could be used as a model for IJA funding.

Fourth, navigating the reporting requirements for certain funding has been challenging because of the time and process involved with setting up a user id on the ID.me system. Some tribal members are unwilling to provide all the personal data needed for work purposes. The process for registering is also very cumbersome and time-consuming. We received multiple errors when trying to submit the reports due for the American Rescue Plan Act. If these types of requirements will continue to be used for other funding streams, these issues need to be addressed to ensure that tribes can meet the requirements in a timely and efficient manner. A possible solution would be to assign a "grant manager" to each tribe, that we could reach out to with questions. Most grants we receive have a "program manager" and a "fiscal manager" at the granting agency that are assigned as our contacts.

Lastly, matching requirements greatly hinder the ability for tribes to secure these funds. It does not seem appropriate to force tribes to be required to provide set levels of matching funds, or to provide the funds up front, only to be reimbursed upon completion of the approved project. The Band acknowledges that some of these matching requirements are statutorily required but believes that Congress should encourage agencies to make efforts to ensure any statutory restrictions create as

⁶In addition, deadlines have been extended from time to time, but tribes that have already submitted applications don't have the ability to pull their submission back to improve it. This should be corrected to allow tribes that have likely rushed to submit applications to have the ability to pull back and improve their applications for resubmission.

minimal a barrier as possible, including minimizing matching with as small amount as possible. This can be done in a variety of ways including considering rate payer funds and other federal funds as matching funds. This would help tribes because many tribes already receive federal funds which could be used to help with cost-sharing requirements. And, where matching is not statutorily required, agencies should be required to not include matching requirements for awards to tribes.

Senator SMITH. That is fine with me. Thank you, Chair Dupuis. Welcome.

**STATEMENT OF ADAM SAVARIEGO, TRIBAL SECRETARY,
UPPER SIOUX COMMUNITY**

Mr. SAVARIEGO. [Greeting in Native tongue.] I am Adam Savariego. I am the tribal secretary for Upper Sioux Community. Chairman Jenvold asked if I could attend this hearing today, and I thank you for the opportunity for allowing me to speak very briefly on Upper Sioux Community's concerns.

The first concern I want to bring up, and I thank Dupuis and Deuce for approaching me prior to this hearing, because on principle they disagreed with only five of the elected tribes being here today. We have to constantly do that as indigenous nations to reaffirm our sovereignty, not only to ourselves but out of respect for our other tribal nations. It would be a disservice to each individual tribe if we don't acknowledge that. I think we as indigenous people have always known that notion.

We opened up today speaking on the Constitution of the United States, and that it is the duty of the Federal Government to acknowledge treaties and the sovereignty of tribal nations throughout the Country. However, I often teach in my college classes that our sovereignty is an inherent human right that preceded the foundation of this Country and the Constitution itself. It is something I take very seriously in my obviously young years of being an elected leader for the Upper Sioux Community.

We learned of this hearing through Deuce just the other day. I came because of Chairman Jenvold's wishes. I didn't know what to expect. I was here to listen and observe until, again, as I said, they approached me.

In terms of infrastructure, for the Upper Sioux Community, for the last 15 to 20 years we have had the self-determination, whether it is a water treatment plant, in 2005, I believe we installed fiber optics, which was the first in the rural area. Just for reference, the Upper Sioux Community is about two and a half hours west of here in a very remote town of 2,800 people in Granite Falls, Minnesota.

Due to our self-determination, we are constantly at the whims of local agencies and governments. One example I will bring up is Mediacom. They don't really appreciate that we have our own infrastructure in terms of broadband. We have to constantly again reaffirm to ourselves that we are competent enough to develop our own infrastructure.

Frankly, Mediacom didn't have their fiber optic access up until a few years ago. So the Upper Sioux Community was ahead of the curve by at least 10 years in that regard. At any point in time, we are ready to expand that access.

But again, because of the landlocked system we have to live in, with the reservation system, we are at the whim of Mediacom in terms of how fast we can increase our speeds. The running joke on the reservation is, we still have res-internet, because it is considerably slower, and Mediacom does have that authority and power to I guess limit or inhibit our speed in the first place.

We are also at the whims of farmers around in the local area, particularly when it comes to our waterway systems. A constant reference Chairman Jensvold makes is county ditch nine, in the Yellow Medicine County area, that as soon as it hits our reservation, it turns back into a creek somehow, even though we know by June, July if there are e-coli levels in there that makes it unsafe to even be around.

In 2019, we had historic flooding in the Minnesota River Valley that we do believe led to the infrastructure depletion of Highway 67 which we have been talking to MNDOT in regards to the right-of-way access. Upper Sioux would probably assume responsibility for maintaining that highway.

So like I said, fighting the narrative of the local interests, local governments, the county, the State and frankly, the Federal Government, today we have to constantly reaffirm to ourselves that we are competent. The funding definitely helps, particularly when it comes to that need of infrastructure.

I want to make known, though, I think as with all the elected leaders here today, that a consistent story I am hearing is we know what we are doing, because we are the original caretakers of this land. Again, Pidamaya, Miigwech, thank you to Dupuis and Deuce for allowing me the opportunity to speak on Upper Sioux Community's behalf. Thank you.

Senator SMITH. Thank you. Could you please repeat your name, just for the Congressional record?

Mr. SAVARIEGO. My name is Adam Savariego. I am the Tribal Secretary for Upper Sioux Community.

Senator SMITH. Thank you very much.
Chair Larsen?

**STATEMENT OF HON. ROBERT LARSEN, PRESIDENT, LOWER
SIOUX INDIAN COMMUNITY**

Mr. LARSEN. [Greeting and opening in Native tongue.] Senator Smith and members of the Committee, I appreciate the time. My name is Robert Larsen. Most folks call me Deuce when they get to know me. It is my honor and privilege to serve as the President of the Lower Sioux Indian Community in the State of Minnesota.

I want to say again, Pidamaya, thank you for allowing me to give my community a voice before the United States Senate Committee on Indian Affairs to discuss investing in Native communities.

I do want to echo, though, that I understand time constraints. But there are 11 distinct voices that should be heard at these hearings. I want to echo that out.

Our community, though small, is a sovereign and federally recognized tribe in southwestern Minnesota, about an hour and a half west and south of here. In Minnesota, the Mni Sota Makoce, which was our original homelands, this whole State that is called Minnesota now, reduced to less than our 1,700 acres, is our reserva-

tion. Our name for this region is Cansayapi, which translates to “where they mark the trees red.”

Despite various Federal laws and policy that have been aimed to extinguish our people, and some still on the books today, our citizenship is thriving. The Lower Sioux has experienced a 70 percent growth since 2000, with over one-third of our citizens under 18 and almost half under 50. We thrive despite being exiled in our own homelands, homelands that predate the establishment of the United States. Our people risked death to continue to live here. The fact that we are still here and flourishing is a testament to the strength of our ancestors and the Dakota people.

Our goal as leadership for Cansayapi is to always think and act while keeping in mind the next seven generations. We are encouraged that this Act supports specific infrastructure needs and is a tangible example of Federal trust responsibility to the tribal nations.

This legislation helps support our community as we continue to thrive with our goals of improving infrastructure. Cansayapi intends to use the available funding from the Bipartisan Infrastructure Law to support our endeavors to strengthen sustainability, notably in the areas of our broadband and wastewater treatment.

When our community was shut down due to the COVID-19 pandemic, we, like many governments, communities and businesses became more reliant on the internet to continue operations. Having reliable high-speed internet is critical for our continued growth. Our local broadband company self-identifies as providing available, reliable coverage, but in reality, that is not the case.

Currently, the Community has developed a broadband fiber installation plan to improve connectivity for the community’s citizens living here. Our goal is that all community citizens living on the reservation will have access to high quality, reliable internet service. After completing a feasibility study in the summer of 2020, our hope is to ultimately have fiber broadband installed and operational soon.

We also struggle with inadequate housing, which according to HUD’s own study, we are 87 units short of the community’s need. With our efforts to build stronger broadband services on our small land base, we need to ensure that future development does not create inequity in accessing reliable broadband.

As our population grows, we have discovered our current wastewater treatment facility cannot accommodate our needs much longer. It is critical that the community builds a new wastewater treatment facility. Again, we are encouraged with these efforts.

To us, water is sacred, a life-giver, and vital to our growing community. The interconnectedness of our people and the waters of our nation are tantamount to our identity and play a key role in our cultural traditions. We currently have a small project that would allow construction of individual sanitation facilities for three new and other category homes, including homes we are building with hempcrete that we hope to get started this year. We are growing our own and having a facility to make the hempcrete.

With our growing population, the demand will only continue to rise. These systems are costly and critical to ensure safe living con-

ditions for the health and welfare of our citizens, and to prevent overcrowding in homes which often can inundate existing systems.

Funding from this Bipartisan Infrastructure Law supports the community's sustainability efforts and supports Cansayapi's official vision that "The Lower Sioux Indian Community is a healthy, safe, and happy community, grounded and guided by Dakota culture, traditions, and language, where every person contributes to a diversified social and economic life. The people grow, adapt, and innovate together, through opportunities that span the generations and seek continuous success."

Out of respect for the time, our written testimony has more information, vital infrastructure needs related to the endeavors that will support job opportunities, and road safety measures. We are very appreciative of every member of Congress who supported this bill. The community also thanks Senator Smith's office for keeping us apprised and for providing more information about the many funding opportunities that come from this historic law.

The community also thanks Chair Schatz and the entire Senate Committee on Indian Affairs for the invitation to testify before you today. Pidamayado.

[The prepared statement of Mr. Larsen follows:]

PREPARED STATEMENT OF HON. ROBERT LARSEN, PRESIDENT, LOWER SIOUX INDIAN COMMUNITY

I. Introduction

Good afternoon, Chair Schatz, Vice Chair Murkowski, members of the Committee and honored guests. My name is Robert "Deuce" Larsen and it is my honor and privilege to serve as President of the Lower Sioux Indian Community in the State of Minnesota. Thank you for allowing me to give my Community a voice before the United States Senate Committee on Indian Affairs to discuss Investing in Native Communities: Transformative Opportunities in the Infrastructure Investment and Jobs Act.

II. Lower Sioux Indian Committee in the State of Minnesota

The Lower Sioux Indian Community is a sovereign and federally recognized tribe in southwestern Minnesota, or Mni Sota Makoce, the original homelands of the Dakota people. The Lower Sioux Indian Community is part of the Bdewakanton Band of Dakota. Our name for this region is Cansayapi, which means "where they mark the trees red." Pride in our history and our culture are the heart and spirit of everything we do.

Despite various federal laws and policy that have aimed to extinguish our people (with some still on the books to this day), our citizenship is thriving. Lower Sioux experienced a 70 percent growth since 2000, with over one-third of our citizens under 18 and almost half under 50. We thrive despite being exiled on our own homelands—homelands that pre-date the establishment of the United States. Our people risked death to continue to live here, and the fact we are still here, and flourishing, is testament to the strength of our ancestors and the Dakota people.

We aim to ensure our people grow, adapt, and innovate together, through opportunities that span the generations. Our goal as leadership for Cansayapi is to always think and act while keeping in mind the next several generations. We are encouraged that this Act supports specific infrastructure needs and is a tangible example of federal trust responsibility to tribal nations.

This legislation helps support our Community as we continue to thrive with our goals of improving infrastructure. The programs and opportunities with this legislation creates programs that will directly benefit the Lower Sioux Indian Community. Cansayapi intends to use available funding from the Bipartisan Infrastructure Law to support our endeavors to strengthen sustainability, notably in the areas of broadband and wastewater treatment.

III. Regarding Broadband

When our Community was shut down due to the Covid-19 Pandemic, we, like many governments, communities and businesses became more reliant on the Inter-

net to continue operations. Having reliable high-speed Internet is critical for our continued growth. Our local broadband company self-identifies as providing available, reliable coverage, but in reality, that is not the case.

At present, the Community has developed broadband fiber installation plans to improve connectivity for the Community's citizens living in the tribal community. Our goal is that all Community citizens living on the Reservation will have access to high quality, reliable Internet service. After completing a feasibility study in the Summer of 2020, our hope is to ultimately have fiber broadband installed and operational. We were pleased to see the commitment to grants that can be used to expand access to and the adoption of broadband service on tribal land or remote learning, telework, or telehealth services and does not limit such expanded access to the COVID-19 pandemic. This effort can also assist with insuring connectivity to future housing expansion. We struggle with inadequate housing, which last estimated is to be 87 units short of the Community's need. With our efforts to build stronger broadband services on our small land base, we need to ensure that future development does not create inequity in accessing reliable broadband.

IV. Regarding Wastewater Treatment

As our population grows, we have discovered our current wastewater treatment facility cannot accommodate our needs much longer. It is critical that the Community builds a new wastewater treatment facility. This legislation invests \$6 billion dollars to support water infrastructure in Tribal communities, including \$3.5 billion over five years for the Indian Health Service Sanitation Facilities Construction program. To us, water is sacred, a life-giver and vital to our growing Community. The interconnectedness of our people and the waters of our nation are tantamount to our identity and plays a key role in our cultural traditions.

We currently have a small project that would allow construction of individual sanitation facilities for three new and other category homes, but as I mentioned previously, our Community is in need of an additional 87 homes all of which would require access to adequate sanitation facilities. With our growing population, the demand will only continue to rise. These systems are costly but are critical to ensure safe living conditions for the health and welfare of our citizens and to prevent overcrowding in homes, which often can inundate existing systems.

V. Regarding Transportation

Review of the Act provides significant opportunities for transportation infrastructure. We are especially interested in road maintenance, preventative safety measures and transportation facilities. The Act provides ways to incorporate tribal interests at the forefront with the addition of key positions in government. Moreover, the Act recognizes that tribes and its leaders need to be consulted and part of decision-making for activities in their lands.

VI. Closing Statement

Funding from the Bipartisan Infrastructure Law supports the Community's sustainability efforts and supports Cansayapi's official Vision that "the Lower Sioux Indian Community is a healthy, safe, and happy community—grounded and guided by Dakota culture, traditions, and language—where every person contributes to a diversified social and economic life. The people grow, adapt, and innovate together, through opportunities that span the generations and seek continuous success."

Out of respect for the Committee's time during oral testimony, we included more information on potential funding opportunities the Community plans to seek to support vital infrastructure-related endeavors. The number of funding opportunities and the amount of infrastructure that can be funding through the Act is unprecedented. This law will bring jobs and with that economic development and security into our Community. This Act represents a tremendous amount of opportunity for the Community. Vast opportunities are available, so the need for technical assistance with these programs will be high. The Community is also interested in many areas in the Act, such as cyber security, energy efficiency and research.

We are appreciative of every member of Congress who supported this bill. The Community also thanks Sen. Smith's office for keeping us apprised and for providing more information about the many funding opportunities that come from this historic law. The Community also thanks Chairman Schatz and the entire Senate Committee on Indian Affairs for the invitation to testify before you today.

Pidamayado.

Senator SMITH. Thank you very much, Chair Larsen. I appreciate that.

I also want to note and give greetings to Grand Portage Chair Deschampe. Thank you for being here. All of the Minnesota tribal leaders are going to have an opportunity to join together for a working lunch with the Committee after this. I look forward to that as well.

I will now turn to the Honorable Bryan Newland for your testimony.

STATEMENT OF HON. BRYAN NEWLAND, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY: JASON FREIHAGE, DEPUTY ASSISTANT SECRETARY OF MANAGEMENT

Mr. NEWLAND. [Greeting in Native tongue].

Good morning, everybody. My name is Bryan Newland. I am Assistant Secretary for Indian Affairs here at the Department of Interior. I am really glad to be back home-ish in the Great Lakes region.

Prior to serving in this role, I served alongside many of the tribal leaders here as tribal chairman for my own tribe, the Bay Mills Indian Community. I have to say it is a blessing to be amongst them again. I learned a lot from them during my time as tribal leader, particularly through the pandemic when I watched many of my friends here lead not only their communities but serve as examples for pandemic response for the entire Nation.

So I am really glad and honored to be here, and Senator Smith, grateful for the invitation from the Committee to appear before you today. I am also grateful to Chairman Andersen for hosting this field hearing. It is always great for us to have an opportunity to get out into Indian Country and into communities where we are hearing directly from tribal leaders and representatives.

In total, the Bipartisan Infrastructure Law, or the Infrastructure and Jobs Act, invests as you noted, Senator, more than \$13 billion directly into tribal communities, and tribes may apply for billions more through various other grant programs. From this law, the department has received more than \$3.1 billion directly for tribal communities, and tribes have been made eligible by Congress for additional department programs to support building resilience for wildland fire and drought, restoring ecosystems and enabling fish passage.

The department began implementation of the Infrastructure and Jobs Act with three tribal consultations, covering all of the programs for which tribes are eligible. We heard some consistent themes in those consultations, including the need for interagency coordination, technical assistance, and streamlining our permitting process.

The White House Council on Native American Affairs and its committees meet regularly to discuss our work to implement the Infrastructure and Jobs Act. Our Indian Affairs spend plan includes the creation of an interagency coordinator position and regional positions to directly provide tribes with the technical assistance we heard about during those consultation programs.

The timely approval of permitting and realty actions are critical to success. The BIA recently issued an update to our permitting national policy memorandum to streamline the rights-of-way and

business leases for projects that are funded by the American Rescue Plan, the Infrastructure and Jobs Act as well as telecommunications and renewable energy projects. We want to make sure we are not the choke point that keeps this money from turning into benefits at the tribal community level.

Overall, Indian Affairs within the Department of Interior received \$466 million through the Infrastructure and Jobs Act, which included \$216 million for tribal climate resilience, adaptation and community relocation. In addition to our grant program on this topic, the department will announce several community relocation pilot projects to serve as demonstration sites for the United States to relocate willing communities on the front lines of climate change. We know that leveraging Federal funding through this Act and the Rescue Plan and other appropriations with our partner agencies is going to be critical to our success.

We also received \$250 million for irrigation and power, safety of dams and water sanitation. We have \$50 million available to us to spend each year. This funding is critical to address our deferred maintenance backlog in these areas.

In Fiscal Year 2022, we allocated \$10.6 million for water sanitation. Water and sanitation project funding has been coordinated with IHS, and will be used to support improvement and repair projects that address public health and safety compliance issues at our BIA-owned drinking water and sanitation systems.

In Fiscal Year 2022, let me back up, Senator, and just note that even though those are BIA-owned systems that they are direct service systems and directly benefit people in tribal communities.

In Fiscal Year 2022, we allocated \$10 million for irrigation and power projects. Within this total, 70 percent is directed to Indian irrigation projects, and 30 percent of that funding is used to support BIA-owned power utilities. For safety of dams, we invested \$29.1 million in Fiscal Year 2022 to begin to address the \$1 billion deferred maintenance backlog for BIA-owned dams.

The Department has received funding in other areas from the Infrastructure and Jobs Act. In February, for example, we allocated \$1.7 billion to fund Indian water rights settlements that had been enacted and fulfilled all the outstanding Federal payments necessary to complete the terms of those settlements.

The Infrastructure and Jobs Act also provided \$150 million to address orphan wells and well sites on tribal lands. And the Act provided the department with \$905 million for ecosystem restoration and resilience funding. Tribes and tribal lands are eligible for most of that funding, whether through grants, agreements, or contracts, and in this fiscal year BIA received, as a portion of the department's funding, \$4.8 million for these activities.

We are also providing nearly half of those funds as competitive grants through the America the Beautiful Challenge Fund administered through the National Fish and Wildlife Foundation.

Indian Affairs is engaged with other Federal agencies to implement the Infrastructure and Jobs Act. For example, the BIA is in the process of allocating funding from the Department of Transportation to tribes to tribes for the Tribal Transportation Program here in Minnesota and across the Nation.

So these are just some of the examples and highlights of the work we are doing under the Infrastructure and Jobs Act. I do want to note that between the American Rescue Plan and the Infrastructure and Jobs Act, tribes here in Minnesota have received nearly \$47 million in funding, separate and apart from the Rescue Plan funding that the Treasury Department distributed to tribes.

So this has been a historic level of investment in Indian Country. As Chief Executive Benjamin mentioned, we have a lot of catching up to do. I have heard a tribal leader in one of our consultations describe this as the great catch-up, not the great bottle of ketchup, but the great catch-up on infrastructure investment. It has been transformative in many tribal communities and is a great way for us to start in our work between our co-equal branches of government in meeting our trust responsibilities.

Senator Smith, I want to thank you and thank the Committee for inviting me to testify today. We have submitted our complete testimony for the record. I am happy to answer questions.

[The prepared statement of Mr. Newland follows:]

PREPARED STATEMENT OF HON. BRYAN NEWLAND, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Good afternoon, Senator Smith. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior (Department) on how the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), is an investment in Native Communities. I appreciate the opportunity to address implementation of these critical infrastructure investments and their impact across Indian country.

IIJA Funding for Indian Affairs and Across the Department

In total the IIJA invests more than \$13 billion directly in Tribal communities across the country and Tribes may apply for billions more through various grant processes being deployed throughout other agencies. These resources go to many Federal agencies to expand access to clean drinking water for Native communities, ensure every Native American has access to high-speed Internet, tackle the climate crisis, advance environmental justice, and invest in Tribal communities that have too often been left behind.

The Department received over \$3.1 billion directly for Tribal communities, which included a \$466 million investment for the Bureau of Indian Affairs infrastructure projects and climate resiliency initiatives, \$150 million for Tribal orphaned wells, and a historic investment of \$2.5 billion to help the Department fulfill pre-existing settlements of Indian water rights claims. The IIJA also made Tribal communities eligible for additional Department programs to support building resilience to wildland fire and drought, restoring ecosystems, enabling fish passage, and addressing legacy pollution from abandoned mine lands and orphan oil and gas wells.

Consistent with the Administration's commitment to consult with Tribes and support self-determination the Department began implementation with three Tribal consultations covering all programs for which Tribes are eligible. The consultations were completed within the timeframes necessary to inform spend plans that were required by the IIJA. The consultations served both to increase awareness of funding opportunities for Tribes and to gather input from Tribal leaders. There were three consistent themes: interagency coordination; technical assistance, and streamline permitting. As the IIJA programs will be implemented over several years, future consultations may be necessary.

Additionally, the Bureau of Reclamation (Reclamation) continues to conduct Tribal information and listening sessions on investing IIJA funding with a commitment to supporting Reclamation's strong relationships with Tribal communities. Starting in December 2021 and continuing through the spring, Reclamation hosted consultation sessions with Tribal leaders on IIJA implementation. Reclamation also conducted separate outreach sessions for Tribes and appreciated the opportunity to hear from these communities about the effectiveness of its IIJA-funded programs. These Tribal consultation sessions provided additional ideas for broadening outreach to Tribes who are eligible for Reclamation's IIJA-funded programs described below.

Creating a Whole of Government Approach and Maximizing Impact

Indian Affairs is often called upon by Indian country to represent its needs and help drive an all of government approach to maximizing the many opportunities available to Indian country. We are working to implement Indian country's recommendations through interagency coordination, technical assistance, process improvement, and leveraging of acquisition authorities.

Enhancing Coordination

Successful implementation of the IIJA requires significant consultation, coordination, and leveraging of partnerships. Within the Department, weekly coordination meetings with all bureaus and Departmental leadership ensure the needs of Tribes are considered for all Department IIJA programs.

We are also engaging across the Federal government with several coordination strategies. First, we are leveraging existing interagency coordinating venues. This starts with the White House Council on Native American Affairs (WHCNAA). The Department, in coordination with WHCNAA, is uniquely positioned to define and communicate the benefits of the infrastructure law to Indian country. The various subcommittees of the WHCNAA are critical to Federal coordination and communication. We also worked with the White House Office of Intergovernmental Affairs to release a Tribal Playbook which clarifies all the IIJA funding opportunities available to Tribal communities. Second, across programmatic areas, our team is leveraging interagency coordination through ongoing participation in the White House Tribal Broadband Coordination Committee and working with the Council on Environmental Quality's climate resilience working groups and the Environmental Protection Agency-led Water Infrastructure Task Force.

Technical Assistance

The need to provide technical assistance to Tribes cannot be overstated. Therefore, the Indian Affairs spend plan included the creation of an Interagency Coordinator position who will assist Tribes and Tribal organizations identify and apply for available funds. The incumbent in this position will also be charged to work within the federal family to assist sister federal agencies in making their programs more accessible to Indian country.

Streamlining Processes

Timely approval of permitting and realty actions are critical to infrastructure investment in Indian country. To this end, BIA announced a National Policy Memorandum (NPM-TRUS-44) which streamlines the rights-of-way (ROWs) and business lease application process for projects funded by the American Rescue Plan Act and IIJA, as well as Telecommunications and Renewable Energy Projects. This action advances the policy of the BIA to support Tribal Nations in exercising their sovereignty to govern their lands and pursue economic self-sufficiency, conservation practices, and climate resiliency. Specifically, this National Policy Memorandum provides clear direction to ensure that ROWs and business leases are expedited so there is no unnecessary delay in deploying critical infrastructure to Indian country. Additionally, the fiscal year (FY) 2023 President's Budget requests an additional \$2 million that will allow the BIA to increase staffing for realty functions which are critical to infrastructure investment.

Leveraging Buy Indian Act Authorities

Indian Affairs is also working to expand the impact of IIJA and other infrastructure funding by increasing the use of Buy Indian Act authorities. This is being done by focusing on engaging with and maximizing opportunities for Indian small businesses, and using an integrated approach of policies, procedures, training, and strategic contract implementation. The recent update to Buy Indian Act regulations are a critical step forward. The updates allow the Department to eliminate barriers to Indian Economic Enterprises from competing on certain construction contracts, expand Indian Economic Enterprises' ability to subcontract construction work consistent with other socio-economic set-aside programs, and give greater preference to Indian Economic Enterprises when a deviation from the Buy Indian Act is necessary, among other updates. The update also aligns Indian Affairs and Indian Health Service regulations to facilitate more contracting opportunities for eligible entities under the Buy Indian Act. In order to leverage this rule change, Indian Affairs will solicit proposals from Native-owned construction businesses for a new \$1.5 billion nationwide contract that will cover a wide range of projects for bureaus across the Department.

Implementation of Department Programs Directly Benefiting Tribes

Meeting Our Obligations for Indian Water Rights Settlements

In February, the Department announced allocations totaling \$1.7 billion for enacted Indian water rights settlements that have outstanding federal payments necessary to complete their terms. The Bureau of Trust Funds Administration is managing and investing over \$1 billion for Tribes in trust fund portfolios pursuant to tribal financial objectives and the remainder of the funds were allocated to Bureau of Reclamation for settlement project implementation. This funding allows the administration to uphold our trust responsibilities and ensure Tribal communities receive the water resources they have long been promised. These investments promote economic development and ecosystem restoration. For example, the funding allocated to the Confederated Salish and Kootenai Tribes will be used to rehabilitate and modernize the Flathead Indian Irrigation Project and restore damages to fish and wildlife habitat, while providing water for farmers and ranchers who depend on irrigation for their livelihoods. As part of the implementation strategy, an Indian Water Rights Settlement Completion Fund Executive Committee was established, comprised of the Commissioner of the Bureau of Reclamation, Chairperson of the Working Group on Indian Water Settlements, Director of the Bureau of Indian Affairs, Assistant Secretaries of Water and Science and Indian Affairs, and the Solicitor. The Executive Committee will recommend future allocations of the remainder of the Completion Fund to the Secretary. In order to complete allocations of remaining funding, BIA is engaging with Tribes to finalize indexing costs which are necessary to determine their final settlement payments. The Bureau of Reclamation will continue to work with the Department to identify project specific allocations from the Fund to meet implementation needs.

Advancing Climate Resilience

The IIJA included \$216 million for Tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing Tribal communities across the country. Within this total, \$130 million is directed toward Community Relocation and \$86 million is directed toward Climate Resilience and Adaptation Projects. Total funding of \$43.2 million is available each year for fiscal years 2022–2026.

On April 11th, Indian Affairs announced the request for proposals from Tribes and Tribal organizations for approximately \$46 million from the Bureau of Indian Affairs Branch of Tribal Climate Resilience which is funded by the IIJA and FY 2022 annual appropriations. Tribal needs are diverse. Each Tribe has its own various climate resilience capacities, needs, and issues to address. The existing Tribal Climate Resilience Awards Program has been focused on training, capacity building, and planning since its inception in 2011. IIJA funds will enable BIA to expand the Awards Program to start funding implementation projects developed from their plans.

In addition to the Awards Program, the Department will announce Community Relocation pilot projects in a few communities to serve as demonstration sites. The sites will be chosen based on factors such as risk level, community-readiness, existing plans, and potential to yield lessons-learned for other Tribes facing similar issues. A study conducted by BIA estimated that addressing unmet infrastructure needs associated with relocation will cost \$4.8 billion in Alaska and the lower 48. Given this significant cost of implementing community relocation, effective coordination with Federal, State, local and NGO partners is critical to ensuring we successfully increase resilience of Native communities. Leveraging additional federal funding will be critical to success.

Investing in Irrigation and Power, Safety of Dams and Water Sanitation Improvements

The IIJA included \$250 million for Irrigation and Power, Safety of Dams and Water Sanitation, with \$50 million available to spend annually. This funding is critical to address our deferred maintenance backlog in these areas. In FY 2022, \$10.65 million is allocated for water sanitation projects on the Hopi Reservation, Columbia In-lieu Treaty Fishing sites, and the Northern Idaho water system on the Nez Perce Reservation. Water and Sanitation project funding has been coordinated with the Indian Health Service and will be used to support improvement and repair projects that address public health and safety compliance issues at Indian Affairs-owned drinking water and sanitation systems.

In FY 2022, \$10 million is allocated for Irrigation and Power projects; within this total approximately 70 percent will be directed to Indian Irrigation Projects and the remaining 30 percent will support BIA-owned power utilities. BIA will prioritize funding of projects that reduce deferred maintenance and the risk of failure and

align with condition assessments and modernization studies to rehabilitate aging infrastructure. For Safety of Dams, \$29.1 million is allocated in FY 2022 to begin addressing the \$1 billion deferred maintenance backlog for BIA owned dams. This includes at least \$20 million for rehabilitation of the Oglala Dam within the Pine Ridge Indian Reservation in South Dakota. The allocation of funding follows current program practices which prioritize project funding. The BIA routinely performs inspections and analysis of all high-hazard program dams to understand the risk each structure presents to downstream residents. BIA uses the results of this work to prioritize distribution of design and construction funding to the highest risk dams.

Collaboration Across Interior

Outside of Indian Affairs, our team continues to collaborate with other Department programs on program implementation in areas such as wildland fire, abandoned mine lands, and orphan wells.

The IIJA also provided the Department with \$905 million for Ecosystem Restoration and Resilience funding, of which \$464.6 million is made available to various bureaus. For the initial allocations for FY 2022, \$4.87 million was allocated to the BIA. The range of projects funded include restoration of ecological health by improving forest health and reducing the risk of resource loss to environmental factors such as insects, disease, and wildfire. This investment will allow adaptation/plant ecologists to provide regional technical expertise to support ecological restoration efforts on Indian lands at various USGS Climate Adaptation Science Center regions. Additionally, the Department is providing funding to the recently announced America the Beautiful Challenge Fund administered through the National Fish and Wildlife Foundation. Tribes will be eligible to compete for these grants.

The \$8.3 billion investment under Title IX (Western Water Infrastructure) of the IIJA supports Reclamation's ongoing work to improve water infrastructure while addressing needs in underserved communities. IIJA provides significant funding for longstanding Reclamation programs including WaterSMART, which has been identified by numerous Tribes across the West as an essential program for enhancing water infrastructure and attenuating drought conditions. IIJA funding will expand the reach of WaterSMART and allow Reclamation to leverage additional resources, including funding and technical assistance provided by Reclamation's Native American Affairs Program, to modernize infrastructure and increase water reliability and resilience for Native communities.

We also are engaged with partners in other Federal agencies to support their engagement with Tribes. For example, BIA is in the process of allocating BIL Tribal Transportation Program (TTP) funding from the Department of Transportation to Tribes in Minnesota and across the Nation. The National Oceanic and Atmospheric Administration recently announced funding opportunity of up to \$12 million available under the Bipartisan Infrastructure Law to implement fish passage work and build Tribal organizational capacity. This funding will support Indian Tribes, Tribal commissions, and Tribal consortia in implementing Tribal priority fish passage projects, including organizational capacity building, that benefit migratory fish in coastal ecosystems, including the Great Lakes. To help support coordination on fish passage investments, the Fish and Wildlife Service is working with the federal agencies receiving IIJA fish passage funding to convene a workshop in July with Tribal representatives, state fish and wildlife agencies, and non-governmental organizations as a first step towards identifying shared goals and improving collaboration and coordination. I look forward to updating the Committee in the future about how IIJA funding from our partners benefits Indian country.

Conclusion

The Department is thankful to the leadership and members of the Committee for their continued support for Indian country and the IIJA. The Department looks forward to continuing to work with the Committee on implementing this once in a generation opportunity for Indian country.

Senator SMITH. Thank you very much.
Ms. Fowler?

**STATEMENT OF ELIZABETH FOWLER, ACTING DIRECTOR,
INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Ms. FOWLER. Good morning, Senator, and our honorable tribal leaders and distinguished Federal colleagues. I really am thankful

for the opportunity to be here this morning, and I appreciate the warm welcome. I am pleased that we have our area director for the Bemidji Area Indian Health Service, Mr. Daniel Frye, here this morning as well.

I am thankful that I have an opportunity to provide an update on the Indian Health Service program benefiting American Indian and Alaska Native communities under the Infrastructure Investment and Jobs Act. I testified on May 4th on this topic and provided a lot of background on our sanitation facilities construction program. This morning I would like to provide a few updates that have occurred since that time.

On May 31st, IHS announced the Fiscal Year 2022 allocation decisions for \$700 million that was appropriated to the Indian Health Service within the IJJA, Infrastructure Investment and Jobs Act. Leading up to the allocation decision, the IHS conducted three virtual tribal consultations on the Infrastructure and Investment and Jobs Act from November 22nd, 2021 to January 5th, 2022.

Based on review and consideration of input received through tribal consultation, the IHS decided to use current Sanitation Deficiency System data in the agency's existing funding mechanisms to allocate these resources. This includes IHS direct service projects funded through Federal acquisition regulations contracts for tribal procurement in Indian Self-Determination and Education Assistance Act construction contracts.

The IHS will allocate approximately \$581 million in Fiscal Year 2022 funding for Tier 1 project construction costs. The Tier 1 project is considered ready to fund, because planning is complete. The IHS will also allocate \$60 million for design and construction document creation activities related to these Tier 1 projects, which include engineering and design activities for proposed sanitation facilities, contract documents and contract plans and specifications.

Tier 2 projects have a level of their engineering assessment complete and have a well-understood deficiency and a recommended solution, while Tier 3 projects have deficiencies identified but are still in the planning phase, which may include identifying solutions.

The IHS will allocate approximately \$33 million in Fiscal Year 2022 funding for the planning, design, and construction contract document creation for Tier 2 and Tier 3 projects. The IHS will also use its Fiscal Year 2022 annual appropriations to support additional planning, design, and construction document creation activities for Tier 2 and Tier 3 projects.

The Sanitation Deficiency System currently includes 661 Tier 2 projects, totaling approximately \$2.2 billion, and 361 Tier 3 projects, totaling approximately \$505 million. These allocation decisions align with recommendations from our tribal consultations to prioritize funding for projects that have completed the planning phase and can be immediately placed into the design and construction phase, and to provide sufficient funding for planning and design activities to get projects ready to fund.

Within the IHS Bemidji area, which includes Minnesota, 19 Tier 1 projects totaling \$9.3 million in IHS-eligible costs will be funded with the Infrastructure Investment and Jobs Act appropriation. A listing of those Tier 1 projects was included in our written submission.

Here in Minnesota, IHS will allocate in Fiscal Year 2022 nearly \$1.6 million to the Minnesota Chippewa Tribe, White Earth Band, for the Rice Lake sewer extension, nearly \$3 million to the Menominee Indian Tribe for Keshena sewer improvements, approximately \$9,000 to the Lower Sioux Indian Community for lift station grates, and \$41,000 to the Minnesota Chippewa Tribe, Fond du Lac Band, for the Ridge Road water system water meter installation.

Historically, IHS has received limited program support resources to address the SSC project workload. SFC project funding has increased since Fiscal Year 2018 and the Infrastructure Investment and Jobs Act funding will significantly increase the SFC workload.

However, the IIJA limits funding for program support activities to 3 percent per year. Given this limitation it is possible that the average project duration could be greater than the current average project duration of 3.6 years. The IIJA also restricts program support funding to Federal activities, which means that tribes that operate their SFC projects directly cannot access these needed administrative resources.

To address this need for administrative support, the Fiscal Year 2023 President's budget request, more than \$49 million in facilities and environmental health support resources, to support IIJA implementation. This funding would be available for Federal activities and to tribes who compact or contract under the Indian Self-Determination and Education Assistance Act to implement SFC projects. This investment is critically necessary to maintain existing project completion deadlines and ensure successful implementation of IIJA resources.

We look forward to continuing our work with Congress related to the SFC program, and the use of IIJA funds to make improvements in tribal communities. Thank you.

[The prepared statement of Ms. Fowler follows:]

PREPARED STATEMENT OF ELIZABETH FOWLER, ACTING DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good morning Senator Smith and Members of the Committee. Thank you for the opportunity to provide another update on Indian Health Service (IHS) programs benefitting American Indian and Alaska Native communities under the Infrastructure Investment and Jobs Act (IIJA).

The IHS is an agency within the Department of Health and Human Services (HHS) and our mission is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. This mission is carried out in partnership with American Indian and Alaska Native Tribal communities through a network of over 687 Federal and Tribal health facilities and 41 Urban Indian Organizations (UIOs) that are located across 37 states and provide health care services to approximately 2.7 million American Indian and Alaska Native people annually.

Sanitation Facilities Construction Program

The 1988 amendments to the Indian Health Care Improvement Act require IHS to maintain inventories of sanitation deficiencies for existing Indian homes and communities, to prioritize those deficiencies, and to annually report those deficiencies to Congress. Since 1989, IHS has annually reported these needs to Congress in the form of projects, which are currently catalogued in the Sanitation Deficiency System (SDS). Projects are identified in terms of the facilities to be provided, the cost of those facilities, and the number of homes to be served by the facilities. Funding for projects is distributed to the Areas based on an allocation formula that takes into account the relative needs identified in each Area's SDS inventory. The Sanitation Facilities Construction (SFC) program employs a cooperative approach for planning, designing and constructing sanitation facilities serving American Indian and Alaska

Native communities. Each project is initiated at the request of a Tribe or Tribal Organization, and coordination is maintained throughout project planning, design and construction.

At the end of fiscal year (FY) 2021 about 7,228, or 1.9 percent of all American Indian and Alaska Native homes tracked by IHS lacked water supply or wastewater disposal facilities; and, about 108,459 or approximately 29 percent of American Indian and Alaska Native homes tracked by IHS were in need of some form of sanitation facilities improvements. Many of these homes without service are typically located in remote locations such as on the Navajo Nation and in some remote Alaska Native Villages. The capital cost to construct these facilities are significantly higher than the provision of similar facilities in other geographic locations. Additionally, the cost burden associated with operation and maintenance of these facilities usually exceeds the capacity of the Tribal utility to generate sufficient revenue from the system users to support ongoing operation.

The IHS tracks sanitation projects in the SDS. The list of sanitation projects in the SDS is not static. In collaboration with Tribes, IHS annually updates the SDS project listing to account for the addition of newly identified sanitation deficiencies and to update cost estimates due to increases related to inflation, labor and material costs, and project scope changes.

At the end of FY 2021, the SDS included 1,513 projects. Of this total, 945 projects were feasible and 568 projects were infeasible with a combined total database cost estimated at \$3.4 billion in eligible costs and an additional \$735 million in ineligible costs that will have to come from other non-IHS funding resources.

Ineligible costs are the costs associated with serving commercial, industrial, or agricultural establishments, including nursing homes, health clinics, schools, hospitals, hospital quarters, and non-American Indian and Alaska Native homes. The Sanitation Facilities Construction Act prevents the IHS from using its appropriations for these costs. However, the IHS regularly partners with Tribes and other Federal Agencies to identify alternative resources to successfully support these ineligible costs. If our Federal funding partners are not able to contribute financial support for the projects that have IHS ineligible costs, those projects will not be fully funded and hence cannot be completed if the Tribe does not have the financial capability to fund the ineligible portion of the project.

Economically infeasible projects are those that exceed a per unit cost set for each IHS Area, and three different regions within the IHS Alaska Area. While there was not a statutory barrier to funding economically infeasible projects, the IHS had not been able to fund these projects in light of limited annual appropriations before the IJA was enacted. The IJA provided \$2.2 billion for economically infeasible projects.

The IHS categorizes SDS projects into three Tiers depending on a project's progress toward completing planning activities.

- Tier 1 projects are considered ready to fund because planning is complete. However, design and construction contract document creation activities are not yet complete for current Tier 1 projects. These projects then move through the design and construction contract document creation steps before a construction contract can be initiated through Federal or Tribal procurement methods.
- Tier 2 projects are projects that have a level of engineering assessment completed, such that the deficiency is understood and a recommended solution has been analyzed and scoped; these projects have a cost estimate and design parameters that are accurate within plus or minus 25 percent.
- Tier 3 projects are projects with cost estimates and design parameters that do not have a specific accuracy target, but are based on the best information available at the time of submission. These projects demonstrate that an eligible deficiency has been identified, but the Area may not have determined the recommended solution.

The IHS also assigns a Deficiency Level to each project in the SDS. Deficiency Levels are assigned in accordance with section 302(g)(4) of the Indian Health Care Improvement Act (IHCIA) (25 U.S.C. § 1632(g)(4)) for each sanitation facilities project that has been identified as a need to support Indian Tribes and communities. The Deficiency Levels are explained in the table below.

Sanitation Deficiency Level	Description
V	An Indian tribe or community that lacks a safe water supply and a sewage disposal system.

Sanitation Deficiency Level	Description
IV	An Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system.
III	An Indian tribe or community with a sanitation system which has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or has no solid waste disposal facility.
II	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities.
I	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to routine replacement, repair, or maintenance needs.
0	No deficiencies to correct.

SFC projects can be directly operated by the IHS through Federal Acquisition Regulation contracts or through Tribal procurement. Tribes can directly operate SFC projects through Indian Self-Determination and Education Assistance Act construction contracts (25 C.F.R. 900 Subpart J, 42 C.F.R. 137 Subpart N).

Infrastructure Investment and Jobs Act

The IIJA appropriated a total of \$3.5 billion to the IHS SFC program. The Act includes \$700 million annually from FY 2022 through FY 2026. The Act includes a maximum 3 percent (\$21 million) set-aside for salaries, expenses, and administration each year. These funds are limited to Federal costs only. It also directs that the IHS provide 0.5 percent (\$3.5 million) each year to the Office of Inspector General for oversight of these funds. Finally, the Act also directs the Agency to use up to \$2.2 billion of the \$3.5 billion appropriation on economically infeasible projects.

The IIJA funds will support the construction of water, wastewater, and solid waste facilities in American Indian and Alaska Native tribes and communities. The IHS support for these facilities is an integral component of IHS disease prevention activities. As a result, infant mortality rates and mortality rates for gastroenteritis and other environmentally-related diseases have declined. Research supported by the Centers for Disease Control and Prevention states populations in regions with a lower proportion of homes with water service, reflect significantly higher hospitalization rates for pneumonia, influenza, and respiratory syncytial virus.¹ Researchers associated the increasing illnesses with the restricted access to clean water for hand washing and hygiene.

The SFC Program works collaboratively with Tribes to assure all American Indian and Alaska Native homes and communities are provided with safe and adequate water supply and waste disposal facilities. The residents of these homes will benefit from reduced health care cost associated with water related illnesses. The IHS estimated in FY 2021 that for every \$1 in funding provided for sanitation facilities resulted in \$1.23 in avoided medical cost related to inpatient and outpatient visits related to respiratory, skin and soft tissue, and gastro enteric disease. As required by the bill, IHS will update the Congressional spend plan for these funds annually through FY 2026.

FY 2022 Infrastructure Investment and Jobs Act Funding Allocations

On May 31, 2022, the IHS announced the FY 2022 allocation decisions for \$700 million appropriated to the IHS in the IIJA.

The IHS conducted 3 virtual tribal consultations on the IIJA from November 22, 2021, to January 5, 2022, and based on review and consideration of input received through tribal consultation, the IHS decided to use current Sanitation Deficiency System data and the agency's existing funding mechanisms to allocate these resources. This includes IHS direct service projects funded through Federal Acquisition Regulations contracts or tribal procurement, and Indian Self-Determination and Education Assistance Act construction contracts.

¹Thomas W. Hennessy, Troy Ritter, Robert C. Holman, Dana L. Bruden, Krista L. Yorita, Lisa Bulkow, James E. Cheek, Rosalyn J. Singleton, and Jeff Smith. The Relationship Between In-Home Water Service and the Risk of Respiratory Tract, Skin, and Gastrointestinal Tract Infections Among Rural Alaska Natives. *American Journal of Public Health*: November 2008, Vol. 98, No. 11, pp. 2072–2078.

The IHS will allocate approximately \$581 million in FY 2022 IIJA funding for Tier 1 project construction costs. A Tier 1 project is considered ready to fund because planning is complete. The IHS will also allocate \$60 million for design and construction document creation activities related to these Tier 1 projects, which include engineering design activities for proposed sanitation facilities, contract documents, and contract plans and specifications.

Tier 2 projects have a level of their engineering assessment complete and have a well understood deficiency and a recommended solution while Tier 3 projects have deficiencies identified but are still in the planning phase, which may include identifying solutions. The IHS will allocate approximately \$33 million in FY 2022 IIJA funding for the planning, design, and construction contract document creation for Tier 2 and Tier 3 projects. The IHS will also use FY 2022 annual appropriations to support additional planning, design, and construction document creation activities for Tier 2 and Tier 3 projects. The SDS currently includes 661 Tier 2 projects, totaling approximately \$2.2 billion, and 361 Tier 3 projects, totaling approximately \$505 million.

These allocation decisions align with recommendations from tribal leaders to prioritize funding for projects that have completed the planning phase and can be immediately placed into the design and construction phase, and to provide sufficient funding for planning and design activities to get projects ready to fund.

Within the IHS Bemidji Area, 19 Tier 1 projects totaling nearly \$9.3 million in IHS eligible costs will be fully funded with the IIJA FY 2022 appropriation.*

Sanitation Facilities Construction Workforce and Support Resources

Historically, IHS has received limited program support resources to address the SFC project workload. SFC project funding has increased since FY 2018, and the IIJA funding will significantly increase the SFC workload. However, the IIJA limits funding for program support activities to 3 percent per year. Given this limitation, it is possible that the average project duration could be greater than the current average project duration of 3.6 years. The IIJA also restricts program support funding to federal activities, which means that Tribes that operate their SFC projects directly cannot access these needed administrative resources.

To address this need for administrative support, the FY 2023 President's Budget requests +\$49 million in Facilities and Environmental Health Support resources to support IIJA implementation. This funding would be available for federal activities and to Tribes who compact or contract under the Indian Self-Determination and Education Assistance Act to implement SFC projects, unlike the administrative set-aside in the IIJA. This investment is critically necessary to maintain existing project completion deadlines and ensure successful implementation of IIJA resources.

The IHS will leverage the use of multiple strategies and available authorities to support IIJA recruitment and hiring, including the use of global and open-ended job announcements to streamline the hiring of multiple candidates for jobs across the IHS system, developing a dedicated website to focus on the recruitment of these positions, and targeting job fairs. The IHS will also explore compensation flexibilities, like special salary rates and authority to approve larger recruitment, relocation, and retention incentives. Such incentives are necessary to increase IHS' competitiveness with both private and public sector organizations.

We look forward to continuing our work with Congress related to the SFC program and the use of IIJA funds to make improvements in tribal communities. We are committed to working closely with our stakeholders and we understand the importance of working with partners to address the needs of American Indians and Alaska Natives.

Senator SMITH. Thank you, Ms. Fowler. We will now hear from Mr. Baumann.

STATEMENT OF JEREMIAH BAUMANN, CHIEF OF STAFF, OFFICE OF THE UNDER SECRETARY FOR INFRASTRUCTURE, U.S. DEPARTMENT OF ENERGY

Mr. BAUMANN. Thank you, Senator Smith, and thank you, honorable tribal leaders. It is an honor and a privilege to be here today.

*The listing of the Bemidji Area Tier 1 projects has been retained in the Committee files.

I work at the Department of Energy. My name is Jeremiah Baumann. I am the Chief of Staff to our new Under Secretary for Energy Infrastructure.

It is an honor and a privilege to be here on the ancestral lands of the Dakota, your ancestral lands. Thank you for hosting, Mr. Chairman, here on the lands of the Shakopee Mdewakanton Sioux.

On a personal note, I am eager to be here. I graduated from Rosemont High School, just a few miles down County Road 42. I should confess last time I was at Mystic Lake, I don't think my parents knew. So we will keep that among us.

[Laughter.]

Mr. BAUMANN. My written testimony has been submitted, and there is a list of different programs, both for which tribal nations and every indigenous community can get direct allocations of funding out of the Department of Energy, as well as those where Congress set it up as a competitive program. I thought, rather than list them all out, I will talk a little bit about how we are organizing the Department of Energy to implement these programs in a way that hopefully maximizes accessibility especially for Indian Country, and to talk a little bit about some of those programs sort of grouped by themes, to give a sense of some of the opportunities and hope that that sets up for us to learn how to best improve access to our programs.

I do want to mention briefly some non-IIJA programs that might help as tribal communities look to navigate some of our programs, or that also might help to maximize opportunities.

First, in terms of how the department is approaching the implementation of the Infrastructure Investment and Jobs Act, the department takes very seriously its trust responsibilities, and more than that, the President's directive to uplift and meaningfully engage all overlooked and marginalized communities, but particularly our indigenous neighbors and community partners, for whom we know too long our programs have not been made accessible, but for whom for too long the energy systems of the past and our current energy economy have caused damage or harm or left disproportionate burden.

So we take our responsibility to fulfill the President's commitment to equity very seriously. We think that when it comes to building a new clean energy economy, which is the current charge of the Department of Energy, it is a chance to hopefully go beyond catching up. And there is catching up to do with our energy infrastructure and certainly with the energy infrastructure in tribal communities, but to actually address historical injustices by building a new clean energy economy that is more just and more equitable in terms of how it is built, how it is planned, on everything from not just consultation and engagement, but to actually equitably distributing benefits to as great a degree as we can.

You may have heard of the President's commitment often referred to as Justice40, that 40 percent of the benefits of clean energy investment will flow to disadvantaged communities, including people of color, including tribal nations, including low-income communities who have too often been on the bad end of the disproportionate distribution of harms and burdens in our energy system.

We have a Senate-confirmed leader of an Office of Economic Impact and Diversity at the Department of Energy who is translating what that means when it comes to building the new clean energy economy. If you look on our website, we have defined eight categories of energy benefits that range from minimizing new environmental burdens and reducing historical environmental burdens to reducing the disproportionate energy cost burden that is faced by too many tribal communities, to in some cases, I think the most extreme energy injustice in the Country, the tens of thousands of people in Indian Country who still don't even have access to affordable, reliable electric power from the grid.

That is one theme that cuts across how we are planning our investments in Infrastructure Investment and Jobs Act programs. There are 72 of those programs that total \$62 billion in funding. The Secretary has charged us as we design how the program will work, how the funds will be distributed, to embed those equity principles into each of the programs.

We are also actually organizing the structure of the department itself in ways that we think will make us more accessible, make our programs more accessible for a variety of communities. DOE is interesting as an agency, in that for most of its history, about 80 percent of our resources have been research and development, developing new energy technologies in labs, trying the next generation of solar panels and wind technology that brings costs down and makes it more accessible. But we haven't actually specialized in how to more directly make those technologies more accessible with the predominance of our funds. Our energy efficiency and renewable energy teams have done a lot of work in that regard.

But we see this as a huge opportunity because with the good work that Senator Smith and others did in putting together this law, 90 percent of the funds, more than 90 percent are actually for both demonstrating technologies, so helping both investors and companies that are going to deploy these technologies, understanding new technologies, but demonstrating them in ways that help communities understand the technologies, what are the pros and cons of these technologies, what are the costs, what are the risks and benefits to help figure out how they want to deploy the technologies, but also directly supporting communities in deploying those technologies.

So the Secretary created a new Office of the Under Secretary for Infrastructure. Instead of being organized the way we energy nerds organize things, by renewable energy and fossil energy and nuclear energy and electricity, it is organized by the strategy or the community that we are trying to serve with these demonstration and deployment projects.

So we created a new Office of State and Community Energy Programs, and we have actually moved the Office of Indian Energy Policies and Programs to sit alongside our State and Community Energy Programs, so that we are working together to build the capacity of the department to support clean energy deployment.

Those offices are sitting alongside our Loan Programs office, our Clean Energy Demonstrations office, our Manufacturing and Energy Supply Chains office, so that all these programs are working

hand in hand with the teams that are working to help these technologies get deployed in communities.

Let me just talk briefly about a few of the types of programs I think might be of particular interest. First, we have three primary programs where Congress gave us a formula allocation that includes tribal nations and communities getting a direct allocation of funding. Those include energy efficiency and conservation block grants. That is \$500 million to be used for a wide range of clean energy purposes, from planning what your community wants to have happen to its energy systems, to actually deploying energy efficiency or renewable energy projects.

The Weatherization Assistance program, which is a longstanding program that improves home energy efficiency for low-income families, there is a huge infusion of \$3.5 billion into that program. Those funds flow through both tribes and States to non-profit action agencies that actually do hire contractors and do the energy efficiency work in homes. I should highlight, that program is also eligible to be used for workforce development and training a local workforce to do the work in buildings that will make those buildings more comfortable and reduce energy bills for families.

The third category where there are formula dollars that directly allocate funds for tribal nations and communities is in the department of upgrading our electrical grid infrastructure. Specifically, one program called Preventing Outages and Enhancing the Resilience of the Grid allocates \$2.5 billion by formula to States and Indian tribes, primarily for increasing resilience to natural hazards that are increasing with climate change, from wildfire, storms, flooding, et cetera. A wide range of resilience activities are eligible, including building and developing microgrids and distributed energy resources which I know is something many American Indian and Alaska Native communities have expressed interest in.

Senator SMITH. Mr. Baumann, I am so sorry, I know it is quite difficult because we don't have timers on the table, but if I could ask you to wrap up your verbal testimony, we will have time to look at all the written testimony, so that we have time for questions.

Mr. BAUMANN. Absolutely. Let me just quickly acknowledge one challenge, which is that some of the formula programs unfortunately both the ways the formulas work do result in quite small allocations, specifically to tribal communities. I think it was Chairwoman Chavers who mentioned the costs that can be imposed in terms of overhead and paperwork and financial reporting.

So we are looking very hard at how we can be creative to help people access these funds in ways that might not have that overhead or that might leverage really small grants for much bigger benefit.

I would be happy to talk more about some of those opportunities, including other programs of the department, as you would like. Thank you.

[The prepared statement of Mr. Baumann follows:]

PREPARED STATEMENT OF JEREMIAH BAUMANN, CHIEF OF STAFF, OFFICE OF THE
UNDER SECRETARY FOR INFRASTRUCTURE, U.S. DEPARTMENT OF ENERGY

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, Senator Smith, and Members of the Committee. My name is Jeremiah Baumann, and it is my honor and privilege to serve at the Department of Energy (DOE or the Department), as the Chief of Staff for the Office of Infrastructure. The Department of Energy is responsible for upholding our trust responsibilities to federally-recognized tribes, and we are also directed by the President to uplift and meaningfully engage overlooked and marginalized communities to ensure the new clean energy future holds the same promise for everyone in the United States, including Tribal Nations and Native communities.

Thank you for the opportunity to testify today. I am pleased to be able to highlight the work that the Department of Energy carries out related to opportunities provided through the Infrastructure Investment and Jobs Act (IIJA also known as the Bipartisan Infrastructure Law (BIL)) and specifically investments in Native communities.

In support of IIJA, in February, DOE in February announced a realignment to ensure the Department has the structure needed to effectively implement the clean energy investment in President Biden's Bipartisan Infrastructure Law (or BIL) and the Energy Act of 2020, which includes over \$60 billion primarily for major clean energy demonstration programs and more than triples DOE's annual funding for energy programs.

Further, to embed equity into the way DOE does business and support the President's efforts to build a better America, the Department released a Roadmap to Equity. The Roadmap set five strategic equity goals as the foundation for helping us create a more inclusive, diverse environment for American communities, including Tribal Nations. The goals of this Roadmap include (1) addressing gaps in data collection to facilitate data-informed decisionmaking; (2) increasing opportunities for new applicants to DOE funding opportunities; and (3) increasing participation in DOE research and development and financial assistance programs.

Investing in Native Communities

The IIJA (or BIL) positions DOE to support American communities, including Tribal Nations and Native communities, to upgrade and modernize infrastructure to build the clean energy economy that our Nation needs, to address climate change, and longstanding inequities in our energy system and our economy, and to move towards energy and environmental justice. The Bipartisan Infrastructure Law makes a historic investment in infrastructure—more than \$62 billion for DOE to deliver a more equitable clean energy future—and the Department aims to use these funds to help address a range of critical energy issues in Indian Country, including the unacceptable fact that many in Indian Country still don't have access to reliable, affordable electricity.

Congress made funds available specifically to Indian tribes for energy efficiency and conservation, clean energy projects, and preventing outages and enhancing resilience of the electric grid. This historic investment in clean energy demonstration projects will create jobs and economic opportunity for all Americans, including American Indian and Alaska Native communities.

To maximize the benefits of BIL, including its benefits for Indian country, the Secretary implemented a historic realignment of the Department's organizational structure. DOE's energy programs have historically been approximately 80 percent focused on relatively early-stage research and development. By contrast, the programs authorized in the Energy Act of 2020 and the IIJA are more than 90 percent focused on later stage demonstration projects, to commercialize new technologies, and deployment work, to help communities and the private sector widely and rapidly adopt clean energy technologies. To this end, the Secretary created a new Under Secretary for Infrastructure and instead of being organized around technology type, it is organized by demonstration or deployment strategy. The Office of Indian Energy Policies and Programs is overseen by that Office, alongside a new Office of State and Community Energy Programs, so that both teams can work together as the Department further develops its capacity to help local communities with clean energy deployment. These offices compliment the activities of the Loan Programs Office, as well as offices that focus on modernizing the grid, building manufacturing and energy supply chains, and constructing clean energy demonstration projects.

There are a number of provisions within the IIJA specifically for tribes and Native communities. These were detailed during the Secretary of Energy's March 29th consultation with Tribal Leaders across the country.

Provisions with specific allocations for Tribal Nations include:

- Energy Efficiency and Conservation Block Grants—a formula program that will allocate \$550 million to Indian tribes, states and local governments. The funds can be used for a range of clean energy purposes.
- Weatherization Assistance Program—This existing DOE program will provide \$3.5 billion to improve home energy efficiency for low-income families, reduce energy costs, improve household comfort and safety, and cut pollution. The funding flows through states or to Tribal Nations to provide to weatherization services to low-income families.
- Programs to upgrade the electrical grid—
 - One of these—Preventing Outages and Enhancing the Resilience of the Grid—allocates \$2.5 billion by formula to states and Indian tribes. These funds are primarily for increasing the grid’s resilience and hardening the grid to natural disasters, using among other things, micro-grids and distributed energy resources.
 - Many American Indian and Alaska Native communities have expressed interest in micro-grids and distributed energy resources. o The Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency is a competitive grant program that will offer \$5 billion to states, Indian tribes, and others, for a broader range of projects to upgrade and modernize transmission systems.

In addition, tribes can apply to a wide range of programs offering investment in various new energy technologies, ranging from hydrogen hubs to advanced battery manufacturing to long-duration energy storage demonstrations. Several of these programs may be of particular interest to tribes and Native communities in rural areas or those who have a legacy of mining, fossil energy production, or other industrial activity.

Other provisions under BIL which may be of interest to Tribal Nations and Native communities, include:

- The Energy Improvement in Rural and Remote Areas program provides \$1 billion to carry out activities to improve the resilience, safety, reliability, and availability of energy and to provide environmental protection from adverse impacts of energy generation in rural and remote communities with populations of 10,000 or less. Eligible projects may include: (a) constructing cost-effective energy generation, transmission, or distribution systems; (b) siting or upgrading transmission and distribution lines; (c) reducing greenhouse gas emissions from energy generation in rural or remote areas; (d) providing or modernizing electric generation facilities; (e) developing microgrids; and (f) increasing energy efficiency. DOE anticipates emphasizing energy reliability and resiliency for the funding, and will conduct stakeholder engagement over the next few months to inform the structure of the program.
- The Clean Energy on Mine Lands program: The \$500M in funding associated with this BIL effort will lead to the deployment of up to five clean energy projects on lands subject to mining. The projects will provide an opportunity for mining communities to benefit from the next generation of energy development. DOE is currently in the research stage, with community level stakeholder engagement planned to start this summer, a technical assistance and grant program to commence in the fall, and solicitations for demonstration projects in mid-2023.
- The Advanced Energy Manufacturing and Recycling grants program will offer \$750 million in communities where coal mines or coal power plants have closed to help build new or retrofit existing small or medium-sized manufacturing or industrial facilities. These facilities are envisioned to produce or recycle clean energy products or to reduce carbon emissions from industrial facilities.
- The Battery Materials Processing grant program and a Rare Earth Elements Demonstration Facility effort will invest in processing critical minerals and elements needed for the clean energy supply chain, and will solicit projects to acquire those minerals and elements from acid mine drainage, mine waste, or other deleterious materials. These efforts will offer the opportunity to create new industrial jobs and build a domestic clean energy supply chain in the course of cleaning up and restoring these waste sites where it is much needed.

In addition to opportunities through BIL, the Department has been supporting Indian tribes and Native communities through the Office of Indian Energy Policy and Programs. Since 2010, the Office of Indian Energy Policy and Programs has invested over \$114 million in more than 200 tribal energy projects, making tangible benefits in many Native communities. These investments have resulted in more than 43 MW

of new generation, and more than 10 MWh of new battery storage, providing electricity to over 8,600 tribal buildings across the Nation. These investments have saved over \$13.7 million annually and are estimated to save over \$295 million over the life of these systems, resulting in \$3.46 saved for every DOE dollar invested.

Because we are here in the great state of Minnesota, I will highlight that the following Minnesota Tribes have received financial assistance from the Office of Indian Energy Policy and Programs: (1) Leech Lake Band of Ojibwe, (2) White Earth Nation (2 awards), and (3) Lower Sioux Community. Additionally, in March, Leech Lake Band of Ojibwe was selected for an award to install 534 kilowatts of solar photovoltaic to power nine existing and to be constructed tribal buildings, estimated to save the Tribe over \$2.5 million over the life of the systems.

In May we announced two upcoming funding opportunities, one to deploy energy infrastructure on tribal lands and one to power unelectrified tribal homes and buildings.

For larger scale projects, the *Tribal Energy Loan Guarantee Program (TELGP)* under DOE's Loan Programs Office is authorized to provide up to \$2 billion total in partial loan guarantees to support economic opportunities for American Indian and Alaska Native communities through energy development projects. The Department is particularly pleased to report that for Fiscal Year 2022, Congress provided the DOE's Loan Programs Office the ability to offer direct loans through the U.S. Treasury's Federal Finance Bank for tribal energy development projects.

Conclusion

Across all of DOE's IIJA efforts, the Department will prioritize the President's commitment to create quality jobs and his commitment to environmental and energy justice. These infrastructure investments represent a historic opportunity to make sure communities that have faced disproportionate environmental, economic, or other impacts from past energy production activities or that face the loss of jobs or other economic benefits aren't left behind.

The realities and unmet needs that exist in Native communities are not congruent with the vast untapped energy resources that exist on Native lands. Tellingly, American Indian and Alaska Native communities' interest in developing these resources have increased in recent decades. Like many communities in the United States, Native communities are working towards strengthening their economies and increasing their well-being and accessible and reliable energy is foundational to achieving these goals.

At DOE, the President's commitments require applicants for most programs to engage with communities where their work will be located and to develop specific plans to address job quality; diversity, equity, inclusion, and accessibility so that DOE can assess its progress toward meeting the President's Justice 40 commitments.

On behalf of the DOE, thank you again for the opportunity to testify before you today. I appreciate the ongoing bipartisan support for the development of energy resources in Native communities. We want to create more opportunity for dialogue about how tribes, Alaska Native Corporations, and Native communities can lead the way to a clean, secure, and reliable energy future.

I welcome your questions.

Senator SMITH. Thank you very much.

Thank you to all of our testifiers. We are now going to move into a question period. Because it is just me asking questions, I am going to open up with some questions to our tribal leaders.

But I want to welcome some give and take. If the tribal leaders have specific questions you would like to ask of our Federal witnesses, I would be really happy to facilitate this. Obviously, this is a huge topic, and it is not possible for us to get all our questions answered. But my goal from this is that we can get some next steps that I can then take back to the Committee for the work that we can do together.

Let me start out with a question to any or all of the leaders here. I love this, I can't remember who said this, but the idea of the great catch-up when it comes to infrastructure, roads, bridges, broadband, water, and sewer.

Chair Deschampe, I don't want to put you on the spot, but you certainly would be more than welcome to come and join as well.

I would like to hear a little bit from our tribal leaders who are here, what do you see as the most important impacts of this infrastructure spending? This gets to what is embedded in all of your testimony. What are the one or two most important things we can do that this \$13-plus billion in formula dollars, as well as grant dollars, what is the most important thing we can do to make sure you have good and equitable access to those resources? What do you think will be the greatest advantage and what do you think is the most important thing we can do to ensure equitable access to these resources? Would anybody like to start? Chief Executive Benjamin, and then Chair Dupuis.

Ms. BENJAMIN. I think we have heard a lot of the tribal leaders talk about the allocation of funding and direct funding to the tribes. I think that is something that is going to be very beneficial. When I think about the Mille Lacs Band of Ojibwe, we are a smaller tribe, but we have been fortunate that we have a grants department that can assist in securing some funding, even though they are overloaded as well.

But direct funding I think is so important to tribes, so the smaller tribes or other tribes that don't have the capacity are not left out of the opportunity to have funding to make a better life for their community members.

Senator SMITH. Thank you. Chair Dupuis?

Mr. DUPUIS. I think the impact isn't here yet, but to Melanie's comments, I completely agree with that. It is one of the biggest things tribal leaders have been saying for years, ever since I have been part of this, since 2002, is direct funding. If we get the direct funding, it allows us to build what we need, it allows us to look at the need, but most importantly, the unmet need. By traveling to the reservations, some of you, you get to see the good thinking, the good ways that tribes are implementing things.

For example, microgrid. Fond du Lac has an electrical corridor, a microgrid. Our brother over here brought up the infrastructure piece of broadband. We also have our own broadband company, started before COVID. We need to be able to access that out farther than it is, off the reservation boundaries.

But it is imperative that the direct funding comes to the tribes. That allows us to do what is needed for our constituents. But most importantly, so we can secure a future for the unborn. That is the ultimate goal of the tribal leaders. Miigwech.

Senator SMITH. Thank you.

Mr. DESCHAMPE. Yes. A lot of the dollars that we get through IHS for projects, they require a tribal match. Some of the smaller tribes, we are in no position to make that match. We have a sewer project in the works, it is on our SBS list. There is a line there, that where is your part coming from. We don't have that.

So it comes with a lack of funding for us up north, and a lack of a grant department, too.

Senator SMITH. Thank you. For the record, Chair Deschampe, could you identify yourself?

Mr. DESCHAMPE. Robert Deschampe, Grand Portage Tribal Chair.

Senator SMITH. Thank you very much.

Would other tribal leaders like to comment on this, answer this question? Chair Larsen?

Mr. LARSEN. I think the biggest piece is just respecting the tribes as sovereigns. Like they said, we know what the needs are. The restrictions on some of the funding pieces are what hurt, not having access to the match, not having departments that, I mean, we have an environment office of one staff. So when we are talking climate issues, we have one staff. We have a grant writer and a new grant writer that is learning.

So those things aren't always as easy as you think, just write a grant and you can get it. I just want to put those out there.

Senator SMITH. Thank you. Chair Chavers?

Ms. CHAVERS. Yes. I would like to say that for some of the programs that you listed, the direct funding allocation would be great for tribes. But when the funding comes or when it is announced, sometimes it is like a square trying to be fit into a round hole for us, because it doesn't meet any of those categories or those funding opportunities. Our needs are unique, so don't make such specific funding categories where it can't meet our need.

That's why I think the direct funding is better. If you can do the direct funding, then basically the tribes have the ability to say, well, we can address that need with that funding. But if we went your route, we wouldn't even be able to access the funds.

All the programs you mentioned, sir, Mr. Baumann, no disrespect, I don't have a clue what you are talking about. I'll be honest. And I am a small, rural tribe in need of Department of Energy money.

We don't have renewable energy. We don't have any type of energy needs that are being met, because we don't know about it. We are small. You have to realize, the tribes that are small, one environmental staff, yes. We have one. That is the comment I have.

Senator SMITH. Chair Chavers, how many people do you have? Help us understand that a little bit better, because I think this is a really big deal.

When you are getting information, others can respond to this as well, Secretary Savariego, I would love to hear from you as well. When you are receiving information about funding opportunities, especially grant opportunities, which is the biggest challenge, it seems to me, how do you get that information? What would be better ways of getting access to what is available out there?

Ms. CHAVERS. Usually a tribal leader and/or a director of a program will get the funding opportunity, the funding announcement letter. Then we route it to the appropriate individuals. We have one grant writer. And we have to prioritize what our grants are going to be used for. Right now we have an issue with elderly housing.

Senator SMITH. Right.

Ms. CHAVERS. Then the other part about it is having the ability to provide the backup documentation for that grant, the data.

Senator SMITH. You mentioned this in your testimony.

Ms. CHAVERS. We don't have the data. We don't have the capability of collecting that data. So we hear about shovel-ready

projects, we are scrambling to get shovel-ready projects. Because we don't have the resources.

A lack of resources, and staff, and collection of data, broadband, internet, we are doing our own fiber at home. We are finally going to have high-speed internet. Internet is huge in rural areas, in all tribal communities. With the pandemic, it came to the forefront.

So that is it, the resources. We have a lot of inadequacies that, you think of the larger tribes, I am thinking southwest and whatever, but in our area, we are all struggling with staff.

Mr. SAVARIEGO. I want to reiterate her point. Tribal Secretary, Upper Sioux Community, Adam Savariego. For the past year at Upper Sioux Community it is lack of professional talent, particularly in rural areas has been difficult. Particularly for our tribal planner, who is our lead grant writer. It took us eight, nine months just to get a resume submitted for an application. Then obviously someone, if they are not privy to tribal nations, sovereignty, and the politics of it all, that is another year-long process for them to learn the needs of our tribal community.

So direct funding access, as we keep mentioning, has helped a lot. The ARPA funds, the ability to use those funds immediately for a variety of different programs, post-COVID or the post-pandemic phase was really beneficial to our tribe.

As Deuce said, tribes know themselves best. So believe us when we say that ultimately, particularly because of the lack of staff, if we are not a metro area tribe, by any means.

It has just been a battle, like I said, for the past year now in this position, looking for someone with the capability and competence, to attract them to a town of 2,800 people in southwest Minnesota.

Senator SMITH. Thank you. Would anyone else like to comment on this question?

Mr. LARSEN. As far as getting the information?

Senator SMITH. Both, yes, as far as getting the information.

Let me go to Chair Anderson. I don't think you have had a chance to speak on this question yet. I am asking generally sort of two related questions. One, what do you see as the benefit of these infrastructure dollars, and what specifically do we need to do to make sure that benefit can be equitably distributed? We have had some really good comments about direct funding, flexibility. Chair Anderson, please?

Mr. ANDERSON. Chairman Anderson, Shakopee Mdewakanton Sioux Community. I wanted to mention and reiterate all my addressing of your questions were answered. The biggest piece of the lack of workforce, especially in a rural area, and expertise, is going to have to be addressed in this funding. I think you might have some allowance for that assistance.

Then if you have a lack of workforce to get these projects shovel-ready, you will just keep dragging it on. So I think that direct funding, and there might even be a question about the equitable distribution of it as well. You have more needs in certain areas, and Bryan, I think you certainly addressed all of these things the BIA is responsible for.

I like the tiered effect of the sanitary funding that the IHS is looking at. There is a piece for the planning process. We all know that takes a certain percentage of the dollars it takes to do a

project. So if you have a million-dollar project, you might spend \$100,000 on planning for it, or engineering it.

All of these things, along with everything everyone was saying about access, open communication, impacts the timing of all these projects, especially for the rural tribes, because they need that time to make sure they are doing the right thing and the planning process so key to that.

Senator SMITH. Thank you. Chair Larsen?

Mr. LARSEN. I think the piece that would go along with it is that technical assistance would be nice. We have gotten a lot of the information from your office. Ravyn has been great, I will have to say. To be able to get that technical assistance for our staff to help navigate through it would be a great help.

Senator SMITH. Thank you very much.

Chair Dupuis?

Mr. DUPUIS. I would like to add, on the technical assistance, if we take a look at it, and you can vouch for this too, for a very long time we never had that. So a lot of different things were put into place, starting with the initiation of Indian gaming, for example. I can speak for Fond du Lac, we didn't call outsiders in to build a casino. We didn't call outsiders in to do this; we did it on our own.

But it only carries so far. And the principles that come in as a tribal leader, our grant principles will come to me as an email, and my job is to disperse that out to whoever we have. But there is a lack of technical assistance or technical knowledge within that structure. That Infrastructure Bill will allow tribes to set that up also within our community colleges and principles like this for this training and technical assistance that we need.

But again, it all goes back to one simple thing in my opinion, is that direct funding. If anybody in the Country knows how to stretch the dollar, the tribes have proved that. The tribes have proved it over and over that we are the group of people who are forced to stretch their dollar to try to make things work. Again, the most important thing is, what we do today as tribal leaders is to protect the future for our unborn and ensure there is a future for our unborn.

There are things that we need. But it kind of relies on that simple principle of giving us the direct funding. It allows us to build the infrastructure that we need to reach our unmet needs. It is nobody else's responsibility, because nobody else can do it. For 530 years, somebody has tried to tell us what is best for us, and it has failed.

If we get that direct funding, that allows the tribes to build up that infrastructure that we need to secure that future for our unborn. Miigwech.

Senator SMITH. Thank you. I want to ask if Mr. Roy would like to say a few words. I see you have joined the table. If you could please identify yourself.

Mr. ROY. Thank you, Senator Smith. My name is Secretary-Treasurer Alan Roy of the White Earth Nation. I just really appreciate the comments that are being offered by our Federal counterparts. It is very encouraging to hear Mr. Baumann with his remarks related to energy.

I know on my last leg of my service in tribal government, we focused on a number of areas. It is just very encouraging to see that there is plenty of opportunity out there.

I would just say communication is a huge thing. Ms. Chavers has emphasized that. We just don't know about a lot of these programs. By having a field hearing and bringing the folks out here to meet us, it makes a huge difference. That leader-to-leader discussion, it can't be replaced by email or "dear tribal leader" letters. I get tons of those every week. But just seeing somebody face to face makes a huge difference. Thank you.

Senator SMITH. Miigwech.

I am going to turn to our Federal witnesses. I am quite confident that the emphasis you are hearing from tribal leaders today around direct funding and flexibility, challenges around tribal match, and technical assistance are all things you are quite familiar with.

Mr. Newland, would you like to respond and just tell us a little bit about how the Federal Government where you are, especially Interior, is working to respond to these needs from tribes?

Mr. NEWLAND. Sure. At the Department of the Interior, we have much clearer legal authority to do the direct funding that we have heard about today through Public Law 638 contracting, as well as self-governance annual funding agreements. Many of our fellow agencies don't have that explicit power. So the relationship, rather than being a government-to-government relationship, is often, when we talk about square peg in round hole, it becomes a grantor-grantee relationship.

We have heard about this, and also have heard about, Chair Chavers, the frustrations about not knowing all of the other components of funding available to tribes. We are trying to get at that in a number of ways, including through the White House Council on Native American Affairs, and making sure that our folks in BIA who often, in the field, have the most regular communication with tribal leaders and staff, are conduits for that information.

I am also aware that when it comes to these notifications for consultation or funding availability, they come either not at all or all at once. So as tribal leader, you go to your mailbox in the tribal office and there is a stack this thick of tribal leader letters from different agencies, and consultations are overlapping and deadlines are overlapping. So your staff of one or your staff of one-half are forced to come to you as tribal leader, your tribal administrator and try to triage all of that. It is very challenging.

So we are working at the Department of the Interior with our colleagues across the government to help folks understand self-determination and flexibility. In Executive Order 13175 from President Clinton, it talks about consultation but it also directs Federal agencies to work with tribes on waivers for these program requirements for grants, so that when there are technical requirements that tribes can't turn on a dime and meet quickly that agencies have a directive from the President to waive those requirements in partnership with tribes.

So we are trying to educate our colleagues and other agencies on their authority, not only their authority, but their directive from the President to use those powers and to work with tribes on consensual policy making, and to coordinate our consultation notices

and notices of availability, and to really turn our relationship across the Federal Government away from a grantor-grantee relationship into a government-to-government partnership.

We have seen that with the Rescue Plan funding, as the secretary noted. It comes with the ability to use as needed to respond to crises and urgent needs with a lot of flexibility and without a lot of really detailed restrictions. We have seen tribes do just amazing work with that to benefit their own communities as well as neighboring communities.

Senator SMITH. I remember quite well, leaders, the many conversations we had between the CARES Act and the American Rescue Plan, which I think was an example of a significant improvement in terms of providing direct funding. I have been able to visit some of the tribal nations around the State to see the benefits of that in terms of how you have already deployed those resources so effectively.

I want to follow up, Mr. Newland, on something you said. It is really important. Rather than a government-to-government relationship, which is what should be, we have a grantee-grantor relationship, which is a completely different thing. You mentioned there are challenges because not every agency has the authorities they need in order to fulfill that government-to-government treaty and trust and legal responsibility.

Did I understand that correctly? Because that is a Congressional issue.

Mr. NEWLAND. Correct. The 638 contracting authority is really limited to the Department of the Interior and to Indian Health Service. Then there are examples in other agencies for limited purposes. So even where we have agencies that have, and agency officials that have a desire to provide a lot of the flexibility with funding that we are talking about, they don't have the broad scope of authority to do that that we have within Indian Affairs.

So the Executive Order that President Clinton issued, that President Biden has reaffirmed, tries to make up for that by directing agencies to waive some of these restrictions. But that is a muscle that hasn't been exercised consistently in the last two decades. It is a workaround for some of these challenges. But it doesn't shave the square peg into a round peg.

Senator SMITH. Thank you. I think that is very important, and suggests a place for further work on the part of Congress. I think a lot of times Federal agencies are trying to figure out how to implement something when Congress also has a job to do that it hasn't done.

I am also just struck by the fact, I can't even count the number of Federal employees that must work in all the agencies that are interacting one way or another with tribal governments, and the level of understanding of what that government-to-government relationship should be is dramatically different.

I know the State of Minnesota has worked very hard to do significant training around what that government-to-government relationship looks like. I know there is work that is being done in the Biden Administration to try and improve that.

But we are talking about hundreds of thousands of individuals that one way or another are doing this work. That is one of the rea-

sons why, on the side of the tribes, that it often doesn't feel like there is coordination and cooperation.

Chair Dupuis wanted to say something, and we are going to wrap up in a few minutes. I want to give a chance to Ms. Fowler and Mr. Baumann, if you had something else you wanted to add to this conversation.

Mr. DUPUIS. I was on a call not too long ago about tribal ecological knowledge. And the conversation that we are talking about right now was brought up within it. When you have that many agencies that want to work with tribes it becomes a logistical nightmare. One of the things they are saying is, they want to have consultation with all the tribes. Well, there are 576 tribes. How is that going to happen?

So the conversation went into a regional, but it also went into the training, what is going on within the State of Minnesota, and how you can apply that at a Federal level. Because within the consultation policy at the Federal level, it works both ways.

So the question I am going to ask [indiscernible] is the Executive Order, if I remember reading it, I can't remember if it says shall and will, or may. So I think the Executive Order, where it is put into place, is how the interpretation comes through. The tribes, when they request that under the interpretation or request that waiver principle, designating an Executive Order, an agency will turn around and say, no, we are not going to do that.

So by an Executive Order being put into place, it becomes law. So we don't want to make it any harder than it is, but agencies are violating the law. That is one of the issues we ran into in the State of Minnesota, is the execution of statutes, that if they don't follow the statutes, it is violating the law, or breaking the law in its simplicity.

So those are some of the key things I think have to be done on that interpretation principle from the Federal Government to the tribes in that manner and its agencies. But to have consultation with 576 tribes on ecological knowledge is going to be an absolute logistical nightmare. So the idea was to break it up into regions. I think that is where this should be going. By doing that, we are able to build up that training principle for the staff of these Federal agencies.

I just wanted to let everybody know that conversation has been in a call with the feds on tribal ecological knowledge. Miigwech.

Senator SMITH. Thank you.

Ms. Fowler or Mr. Baumann, is there anything you would like to add to this conversation, of what we have been discussing around solidifying the government-to-government relationship within this process as we work hard to get these infrastructure dollars out the door?

Ms. FOWLER. Yes, thank you. Thank you for that opportunity.

I just wanted to say a few words about some of the issues that were raised this morning. First of all, we are aware that the \$3.5 billion that was appropriated to the Indian Health Service under the Infrastructure Investment and Jobs Act was really aligned with the inventory in our Sanitation Deficiency System. So at the end of December of 2021, we had \$3.4 billion worth of projects in our SDS.

But I think what is important for folks to understand is that is not a static list. It gets updated annually. There may be changes to State or Federal regulations that require additional projects to be added, maybe that we haven't identified all the deficiencies that are out there. So those need to be added. Then we need to remove those that have been funded.

So there will still be a need for sanitation facilities construction funding. But we are really excited about the opportunity for such an infusion of funds. There are some restrictions we have to work with this, statutory for the most part. For example, I believe the matching that was mentioned, I think that refers to the ineligible costs of our projects.

We are able to fund our water and sewer system projects that benefit Indian homes. So there are portions, we are not able to spend our appropriations on non-Indian homes or commercial businesses.

But we have a responsibility to work with the tribe to identify alternate resources to fund those costs that are ineligible for our appropriations. For example, the \$581 million that will go toward 475 projects in Fiscal Year 2022, Tier 1 projects, we know there is \$118 million of ineligible costs that go along with those projects. But we are going to be working hard to identify alternate resources.

Senator SMITH. Thank you.

Ms. FOWLER. We also know that the administrative and administration costs are an issue. That is why we requested the additional \$49 million in the President's budget for Fiscal Year 2023.

But we are going to be also working as hard as we can on the Federal side. We are ramping up our hiring so that we can provide as much technical assistance as we can, since the tribes are unable to access the administrative portion of those funds that were appropriated.

Overall, we are really excited. We are committed to tribal consultation. I really encourage tribes to work with their area sanitation facilities construction program. They do a great job in helping to identify those deficiencies. We are always open to hear how we can improve on that.

Senator SMITH. Thank you very much.

Mr. Baumann, did you want to add anything?

Mr. BAUMANN. Very briefly, to some of the specific issues that you and the tribal leaders have raised. I will identify, Department of Energy is one of these agencies that doesn't really have the flexibility to move more of our funds into direct funding. Congress tells us which ones are formulas and which ones are competitive. So we would love to work with you and the Department of Interior to figure out where is our best creative flexibility there.

Several tribal leaders have raised this issue of technical assistance, which is a very big one. Chairman Chavers, I want to recognize that our stuff is very complicated.

[Laughter.]

Mr. BAUMANN. Most people don't speak Energy Greek.

So one thing we try to do, we have both an ongoing Office of Indian Energy Policy and Programs that has technical assistance grants to help tribes hire a consultant, hire a person, find someone

who can help with the planning and the technical assessment of things.

And we are looking for where we can within our authority actually take portions of the Infrastructure funding and dedicate to technical assistance on the front end, so in some cases we will say, we will have a specific program and money is set aside, so that you can use the first year's funding to plan a project and figure out what you can do with it, then the second year's funding to build a project, is one example.

Senator SMITH. Thank you very much.

Before Chair Dupuis speaks, does anyone else have something they want to add? Chief Executive Benjamin?

Ms. BENJAMIN. Melanie Benjamin, Chief Executive, Mille Lacs Band of Ojibwe. That is the first time I have done that through this whole hearing.

[Laughter.]

Ms. BENJAMIN. I have a question regarding trust responsibility. That is going to be addressed to you.

I talked a little bit in my testimony about wanting to make sure that we address climate change. Then when we look at that, that tribes sometimes are the ones that are kind of pushed out of the way for this advancement of technology and mining and things of that sort.

So how do you address trust responsibility to tribes when you are also looking at trying to address climate change? I have a story that just recently we had a rep from Department of Energy come to one of our areas, and we were talking about the Talon Mine. We brought up trust responsibility. The individual's long-term employee talked about yes, that we need to have a relationship where we trust each other and we can communicate.

So there is not a lot of the staff that maybe understand what that trust responsibility is. Then when there is a conflict, I believe that you have a trust responsibility to the Mille Lacs Band on some of our issues.

We are going to address this whole Talon Mining, so then there are two positions that you have to be involved in. That is mainly what I think about in terms of where does that line get drawn, when we are talking about trust responsibility with the tribes. But you are also talking about some of these green projects that are moving forward that are going to have a negative impact on our way of life and our water.

I think about the Talon Mine up in Tamarack. That will have an impact all the way down to Minneapolis-St. Paul. I think a lot of people don't understand that. So that is kind of what I think about too.

I just wanted to throw quickly to Indian Health Service, technology, I know we have to be more modern terms of this technology to provide the services. So I want to throw that out, that we are going to really need more discussion and more support about bringing all of our technology up to speed to be able to provide the best medical services for our reservation members and our community members that utilize our clinics.

Thank you, Senator Smith.

Senator SMITH. Thank you.

Mr. Baumann, do you want to respond to that quickly? Then I will turn back to tribal leaders to see if they have any last questions before we wrap up?

Mr. BAUMANN. I am happy to. Thank you so much for those comments, Chief Executive Benjamin. The issue you identified is a big one that is very much on the Secretary's radar screen.

To answer your question about trust responsibility, the way I think about it is we have to take responsibility for it at multiple levels. That means both in the kind of literal sense, we have to get Department of Energy's trust responsibilities right.

We also have to work with our interagency partners, because for a lot of these specific projects, like a mining project, it gets complicated quickly.

If I understand correctly on the Talon Mine situation, there is a Department of Energy grant that is going to a project at the site to assess one of the minerals for a carbon storage potential. It is not to do any extraction of nickel or cobalt.

But it is more complicated than that, too, because often even if we were directly involved in a project, we might not be the permitting agency that does the land and the water and the air permitting. That might be Interior, it might be EPA.

So we have to do a better job as a Federal family getting coordinated and making sure we are collectively exercising our trust responsibilities.

I would also say that I think they go beyond this sort of just technical check the box pieces of getting the consultation and engagement to taking the whole issue you are raising seriously. This issue of critical minerals that are needed for electric vehicles, for renewable energy, is an important one. There is a rush, like you are talking about, to try to be less dependent on other countries for a lot of those minerals as we build these economies. But we have to get it right in terms of the impact on the environment, on communities, on sacred lands.

I want to mention that, it is in my written testimony, so I won't go into any detail, but we do have some programs looking at how we find those minerals other ways from recycling, getting them out of batteries that are otherwise being thrown out, how we actually get them out of mine waste, coal waste, hard rock mining waste, so the communities that actually want old mines cleaned up can get some jobs in the process and we get a better source of minerals in some cases.

Senator SMITH. Thank you very much.

I want to be respectful of everybody's time. I think we are getting close to when we were scheduled to end this hearing. As I said, we have the opportunity to have a working lunch after this, which I am looking forward to.

I also want to turn to Minnesota leaders who are here today and see if you have any further questions or comments that you want to make right now before we wrap up.

Mr. DUPUIS. I just want to make the comment, Region 5 for IHS is the lowest-funded region, and it has always been. I think if we are going to look at IHS, I think the additional funding needs to come up. There was a balance under that principle. If we can take a look at what have within the State of Minnesota as an unmet

need, we have the most dispersion of children out of placement in the entire State, what it carries through per capita to the entire Country.

So Region 5 under IHS really needs to be looked at under that principle of adding more funding to Region 5 to reach the unmet needs.

One of the comments you made under the DOE is under the department that there is not a direct line or a direct funding principle. We understand that. But there can be tribal set-asides so that we don't have to compete with others under that manner. I think the tribal set-aside is very important if we getting to a place that tribes have the equality principle to do that, they don't have to go through the competitive process against a larger corporation or organization. Simple tribal set-aside revenue put into place can help the tribes in that manner.

Miigwech.

Senator SMITH. Thank you.

I want to thank all of our witnesses for being here today and for providing your testimony and this conversation. I think the opportunity with the Infrastructure and Jobs Act is significant. It is equally significant that we ensure that that opportunity works for Minnesota tribal nations and for tribal nations all over the Country.

We have heard today from these leaders about the importance of direct funding and respect for flexibility in the way that the dollars are disbursed. We have also heard about the special challenges that small tribes and rural tribes in particular have, not only with providing matches and for funding for the people to fill the jobs that you have, but realizing that you might not even have the jobs that you can fill in order to participate as fully as you might like to in the grant-making process.

I think it is a really good thing that we have Mr. Newland, who has experience both as a tribal leader and now working with in the Federal Government system, who I think understands, as do all of our witnesses on the Federal side, about what these challenges are like on the ground for tribal leaders who are trying to do the very, very best they can to take good care of their members and their responsibilities.

We also heard about the importance, the deep need for technical assistance and the challenges around trying to figure out how to put together the data that you need to put together in order to participate in these strategies, and again the historic underfunding that makes it difficult to take advantage of this now historic funding that is here to improve the lives of people living on tribal lands. We have not today talked very much about urban indigenous communities, but this is also an extremely important thing that I keep in mind all the time as well, as I think about these responsibilities.

I want to thank very much Chair Anderson and the Shakopee Mdewakanton Community for hosting us today and your generosity in having us all be here. I also want to let all of our witnesses know that you may receive follow-up questions, written questions for the record from me or from other members of the Committee who are not here. We will let you know if we have any of those.

This hearing record will be open for two weeks. I want to thank all the witnesses for your time and your testimony today. This hearing is adjourned.

[Whereupon, at approximately 12:50 p.m. CST, the hearing was adjourned.]

ADDITIONAL STATEMENT SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MICHAEL FAIRBANKS, TRIBAL CHAIRMAN, WHITE EARTH NATION

Chairman Brian Schatz, Vice Chairman Lisa Murkowski and Members of the Senate Indian Affairs Committee:

Thank you again for holding this important Field Hearing: “Investing in Native Communities: Transformative Opportunities in the Infrastructure Investment and Jobs Act” in our own State of Minnesota. We believe Native Members across this state will be able to demonstrate excellent examples of transformative actions in infrastructure with the assistance of this bill.

The people of the White Earth Nation are very supportive of the passage of the Infrastructure Investment and Jobs Act. We worked hard for passage of this important legislation and we are very pleased with the expansion of programs for native people. However, we strongly believe critical infrastructure needs for tribal nations are still key to improving life for all of our people through significant investment

I am attaching my written testimony that was sent to your Committee on July 2, 2021. As you can see our needs are very basic in three critical areas: roads, transit and water and sewer. Each of these areas are extremely underfunded and keep the White Earth Tribal Nation at a competitive disadvantage with our non tribal neighbors. We are very hopeful with the increased funding levels in this legislation for the various programs for tribal nations, we can improve our critical edge.

The greatest need the White Earth Tribal Nation has for infrastructure improvement is simply more funding for roads. We are a very large reservation in a rural area. The formula for tribal lands to distribute funds for roads has actually been diminishing for reservations like White Earth. A key formula area was changed over a decade ago and now large rural reservations without large traffic volumes, like White Earth Tribal Nation, actually suffer with this new formula. We believe another key factor needs to be added to the formula determination: the size of a reservation and the number of roads required by the tribal government to maintain. As you can see, our estimates show we need \$30,000,000 for just basic road repairs and upgrades. Many of our roads are still gravel or dirt roads. We need to upgrade these roads for better connection with all communities and to improve safety on tribal roads for everyone.

Another critical area for the White Earth Tribal Nation is transit as I outlined in my testimony to you again last year. The White Earth Tribal Transit program is an active program with transit buses connecting members throughout our reservation and other communities in the area for medical, education, and employment. We critically need to upgrade these facilities with improved hub facilities for our members as they use these facilities in temperatures that can range from over 100 to near -40 Fahrenheit degrees. Our members need reliable transportation if their personal vehicles are not working and transit provides the best alternative.

Another important area is improvement of the Water and Sewer infrastructure on our Reservation. As you can see from my testimony from last year, we estimate a need of \$13 million to replace aging water storage tanks and improve the four water treatment facilities. We currently estimate another \$4.5 million to repair the wastewater treatment ponds and service lines and this does not even start to cover the cost of further upgrades needed in other areas of the water and sewer programs to our many homes and businesses across the reservation.

The infrastructure needs for the White Earth Tribal Nation are great. This tribal nation plans to actively seek grants under most of the key categories for the \$13 billion outlined in the legislation such as the traditional programs for Rebuilding Roads, Bridges and Public Transportation in Indian Country, Promoting High Speed Internet, Protecting our Shared Environment and Promoting Clean Energy, Ensuring Clean and Safe Water, Upgrading Sanitation Systems, and Investing in Tribal Cybersecurity. But we also plan to seek grants and funding in the general categories for non-tribal programs as well especially in the new areas for multimodal freight

and highway projects for rural areas, railway-high grade separation projects, and many other competitive grant programs in various new categories.

Thank you for this opportunity to provide testimony on this important legislation. We believe these funds can help propel tribal nations into a new level of connectivity for surface transportation, transit and bus programs, Internet, water and sewer and many other areas of this legislation that will provide tribal people with new tools to improve lives and make reservations not only a better place to live but a safer, cleaner and more productive environment as well.

Attachment

Chairman Brian Schatz, Vice Chairman Lisa Murkowski and Members of the Committee:

On behalf of the White Earth Band of Ojibwe (the "Band"), as the duly elected Tribal Chairman, I am grateful for the opportunity to share with our some of our needs to ensure that our concerns and voices are heard on these issues. My name is Michael Fairbanks and I have been serving as the Tribal Chairman since 2019. Thank you for this opportunity to address infrastructure needs in Indian Country. I respectfully submit the following written testimony for the Senate Committee on Indian Affairs for your consideration.

Established by the Treaty of 1867, the White Earth Reservation is a 36 mile by 36 mile square in northwestern Minnesota. Our homelands are very important to us but lagging investment in infrastructure over the last several decades has created serious need within our communities. This testimony will focus on roads, transit and water infrastructure.

Roads

Based on the Band's Long Range Transportation Plan (LRTP) to meet future residential expansion and economic growth, we require a total of thirty million dollars (\$30,000,000.00) for road repairs and upgrades. These repairs and upgrades will not only assist the Band in meeting our goals within our LRTP but provide safer transportation within the Reservation boundaries. Many roads Band members use to travel to their homes and between communities are gravel or dirt roads and this investment will help make our roads safer and more well suited to our northern climate.

Transit

The White Earth Transit Department requires a new transit facility, which would cost four million dollars (\$4,000,000.00). This new facility will serve as the hub of tribal transit. The new location would be centered to better serve the Reservation and our membership, as well as new equipment to meet operation and maintenance needs on our fleet of buses.

The Transit Department also requests funding to expand broadband to serve the new facility. This would provide optimal communication between customers as well as our employees. Broadband access is sorely lacking on the Reservation, which hinders the daily lives of our members, including the further use and development of our transit system.

Water and Sewer

The White Earth Water and Sewer Department is in need of thirteen million dollars (\$13,000,000.00) to replace four water treatment plants and recondition three elevated water storage tanks. Replacing the aging plants would serve as a benefit to consumers as well as the staff to provide optimal treatment in removing contaminants and easier maintenance with new equipment. New equipment would provide the technology to remotely monitor the water plants as well as provide backup power ensuring no down time or outages.

Additional funding is needed to provide efficient wastewater services to the tribal communities as well. White will require four million three hundred thousand dollars (\$4,300,000.00) provide repair and upgrade to four wastewater treatment ponds and service lines. These proposed upgrades and repairs are similar to the water treatment request in that new equipment would provide the ability to remotely monitor and backup power to ensure no failure or outages in service. This is benefit not only to our staff's safety but public health preventing any wastewater exposure in the event of a failure/sewer back up in the street or residences.

White Earth has many needs for investment in our tribal infrastructure, but these needs are our priority for development and will assist our tribal members. Thank

you, Chairman Schatz and Committee members for hearing our priorities and for acting accordingly. Chi-miigwech!

