

# FORT PECK TRIBES

Assiniboine & Sioux

**TESTIMONY OF  
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ASSINIBOINE AND SIOUX TRIBES  
OF THE  
FORT PECK RESERVATION  
BEFORE THE  
SENATE COMMITTEE ON INDIAN AFFAIRS  
OVERSIGHT HEARING ON  
TRIBAL TRANSPORTATION: PATHWAYS TO INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT IN INDIAN COUNTRY**

**March 13, 2014**

## **I. INTRODUCTION**

My name is Dana “Sam” Buckles, and I serve as a member of the Fort Peck Tribal Executive Board, the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation. Tribal Chairman A.T. Stafne and my fellow Tribal Executive Board members send their best wishes and thanks to Chairman Tester and the Senate Indian Affairs Committee for holding this important oversight hearing on Tribal Transportation as a pathway to infrastructure and economic development in Indian Country. Thank you for inviting the Fort Peck Tribes to testify. I am pleased to be here today to share my testimony.

The vast majority of my career has been committed to public service to my Tribal community. Prior to my tenure on the Tribal Executive Board, I spent over 20 years working in the health and human services field for the Fort Peck Tribal Health Program. Through that experience I am keenly aware of the health disparity that exists on the Fort Peck Reservation—a disparity that extends throughout all of Indian Country. Nationally, Indians continue to rank at the bottom of every social and economic indicator regarding rates of diabetes, heart disease and cancer; infant mortality; life expectancy; chemical dependency; suicide; unemployment; and income, to name a few. Unfortunately, the leading cause of death among all Americans, especially Native Americans, is motor vehicle crashes. As the Montana Department of Transportation (MDOT) noted in its Comprehensive Highway Safety Plan a few years ago, motor vehicle crashes disproportionately strike Native Americans, including our youth, our most precious resource.

In its 2010 safety plan, MDOT noted that while Native Americans comprise 6.5% of the State’s population, we accounted for 14-20% of the State’s traffic fatalities which are more than two to three times the rate it should be. From 2005-2009, MDOT estimated that 68% of Native American fatalities had behavioral-based causes and 87% of Native American fatalities were not wearing seat belts. On our reservation, over the last 15 years on BIA Route 1 there have been nine fatalities and 43 injuries in 33 motor vehicle crashes involving our members. These are the “reported” motor vehicle crashes in Indian country. Far too many crashes go unreported. Without the data, we are all blind.

Sadly, these conditions are a direct result of federal policies over the last two centuries, and in particular, the federal government's failure to invest in infrastructure and economic development in Indian Country. Funding for the Tribal Transportation Program -- \$450 million for 566 Federally recognized Indian tribes -- has not increased since FY 2009, and in fact went down under MAP-21 as the Tribal bridge program was folded into the allocation formula, Congress terminated the Public Lands Highway Discretionary Grant Program and elected not to appropriate a single dollar for the Tribal High Priority Project Program.

Tribal governments are capable transportation providers when given the adequate resources. The American Recovery and Reinvestment Act (ARRA) demonstrated our capacity to quickly utilize transportation construction and road maintenance funding to address the backlog of transportation projects. Indian tribes are in the best position, as the local government, to tackle long-term economic development, public safety, education, health care and housing needs provided we have basic infrastructure to support our communities, including safe and modern designed transportation systems.

Empowering and strengthening Tribal governments and protecting the well being of our members fulfill the Federal Government's unique trust responsibility to the Indian nations. To rectify the economic and physical barriers that hinder so many aspects of Reservation life, we urge the Indian Affairs Committee to enact a long-term bill highway bill that provides financial predictability and certainty which ensures the Highway Trust Fund (HTF) until a politically viable substitute is in place and with sufficient funding for Indian tribes based on our well-documented transportation infrastructure needs. We request that any such legislation include the following key elements which we request you support and convey to the Senate committees charged with drafting the next highway bill:

1. Tribal Transportation Program (TTP) – Increase annual funding to \$800 million in FY 2015 and include stepped increases of \$50 million per year thereafter;
2. Tribal Transit Program - Increase the existing Tribal transit formula amount to \$35 million for FY 2014 with annual increases of \$5 million, and increase discretionary funding to \$10 million in FY 2015 with annual growth of \$5 million;
3. Tribal Highway Safety Set-Aside – Establish a 2% direct Tribal funding set-aside from the Highway Safety Improvement Program and increase the NHTSA Tribal Safety Program set-aside to 3.5% to reduce the unacceptably high incidence of motor vehicle fatalities among Native Americans;
4. Obligation Limitation Deduction – Restore the exemption that once existed for the Obligation Limitation deduction that removes tens of millions of dollars from the TTP;
5. Federal-Aid Program - Ease the transfer of Federal-Aid funds from State Departments of Transportation (State DOTs) to Tribes by allowing BIA or the FHWA to award State-administered federal-aid funds to tribes under existing federal agreements;

6. Tribal Eligibility for All Federal Grants - Ensure Tribal eligibility as a direct recipient for all U.S. Department of Transportation discretionary and competitive grants.
7. ERFO – Improve the speed and efficiency of getting ERFO funds to tribal governments for emergency use;
8. Tribal Asset Management Program – Establish a tribal Asset Management Program at \$50 million in FY 2015 with annual increases of \$5 million for BIA and Tribally-owned transportation facilities;
9. Unused Obligation Authority – Redistribute 10% of unused obligation authority for the TTP to fund competitive grants to remotely located tribes and restore HTF allocations for the Tribal High Priority Project Program; and
10. BIA Right-of-Way Management – Direct the BIA to update and computerize rights-of-way documentation, support tribal “corridor management” practices and authorize \$10 million to cover implementation and any trespass damages for unrecorded or improperly recorded BIA rights-of-way over Indian lands.

## **II. THE OPPORTUNITIES AND CHALLENGES OF ECONOMIC DEVELOPMENT ON THE FORT PECK RESEVATION**

### **A. Safety Concerns**

The Fort Peck Reservation encompasses 2.1 million acres--over two thousand square miles--in remote northeastern Montana. The Assiniboine and Sioux Tribes and individual Indian allottees own about 1 million acres of land on the Reservation. Nearly 10,000 residents live on the Reservation with roughly two-thirds of them Tribal members and non-member Indians.

The Tribes are responsible for the repair and reconstruction of nearly 400 miles of BIA system and Tribally-owned transportation facilities on the Reservation. Governments that have a taxable base have the resources to properly maintain and reconstruct transportation facilities. We do not have these resources. Our transportation infrastructure badly shows its age and what we do reconstruct we must replace far sooner than if we had the resources, equipment and labor to properly and routinely maintain it.

Our existing formula allocation does not permit us to plan, design and build new routes that must be built and maintain our existing inventory of transportation facilities. While the prospect of economic development from the Bakken and Three Forks oil formations is exciting, our infrastructure is woefully unprepared and we are concerned about safety.

The Fort Peck Reservation lies within the western part of the Williston Basin, which includes many oil producing formations, including the Bakken and Three Forks. As you know the horizontal drilling techniques and hydraulic fracture stimulation or more commonly “fracking,” have brought about unprecedented oil development in the Bakken and Three Forks immediately adjacent to our Reservation in western North Dakota and eastern Montana. As the closest neighbors to this development, our substandard infrastructure--particularly our roads—has come under significant stress, without any accompanying income from development.

Rail, truck and motor vehicle traffic has increased across the Reservation at alarming rates moving oil, people, development related products such as frac sand and pipe, in and out of the Bakken. However, the Reservation road system was not designed to handle the heavy traffic that is now the norm. Other than U.S. Highway No. 2, a federal-aid highway that runs along the southern boundary of the Reservation, the roads on our Reservation were built to accommodate passenger and agriculture transportation. These roads were meant for two-ton grain trucks and school buses. They were not designed to handle tractor-trailer combinations.

## B. Inadequate Road Maintenance Funding Undermines Tribal Growth

U.S. Highway No. 2 has served as the primary artery for travel between all of the major Reservation communities. However, as most direct route to the Bakken from the west, Highway 2 is now congested and dangerous even as it passes through our Reservation, one of the most sparsely populated regions of the country. This phenomenon has introduced yet another serious health and safety concern to our Reservation community. Moreover, the on-going need for maintenance on Highway 2 has forced traffic onto Tribal roadway and transit systems. If all of our \$533,138 allocated by the BIA for Road Maintenance were put to our inventory of roads, it would total less than \$1,350 per road mile. With staff, equipment, sand, salt and gasoline, it is well below that level. Even with our “repurposing” Tribal Transportation Program (TTP) construction dollars for road maintenance needs, as is permitted under MAP-21, we do not have the resources to properly maintain our routes. If routes are not routinely maintained in Montana, they deteriorate far faster than would otherwise be the case.

Our biggest maintenance expense is snow removal which occupies us from November through March. Road maintenance is an essential public safety service, especially in rural, remote Indian reservations where first responders and trauma centers are few and far between. If our roads are not well maintained, they contribute to the high incidence of motor vehicle crashes, fatalities and serious injuries among our members and other Reservation residents. This taxes our IHS funds to treat victims of motor vehicle crashes, both short-term and long-term health care needs.

Over the years many groups have advocated for the enhancement of Highway 2 across the northern plains as popularized by the 4 for 2 campaign. While we continue to support those efforts, we recognize that even if conditions existed to fund such a significant project it would not alleviate the current problems for many years.

The BIA Road Maintenance Program, funded at about \$25 million for roughly 30 years, is the leaky bucket which undermines every national and tribal goal for Indian country. Without routine road maintenance, our routes deteriorate far sooner than would otherwise be the case. Poorly maintained routes undermine our efforts to improve economic development, public safety, health care, and education. We encourage the Committee to urge the Interior Department and the Office of Management and Budget to support an annual budget of \$150 million for the BIA Road Maintenance Program to protect the public as well as the public’s investment in transportation infrastructure.

### **III. ADDRESSING CRUMBLING INFRASTRUCTURE AND STRUGGLING ECONOMY THROUGH TRIBAL TRANSPORTATION**

First, the statutory formula for allocating money to the Tribes through Map-21 as introduced by Senator Baucus and his co-sponsors should be included in any re-authorization of a new Highway Bill. While it is difficult to arrive at a funding formula that provides fairness across the diversity of Indian Country, we believe this proposed formula adequately protects large, rural tribes like Fort Peck, while considering the needs of smaller tribes as well.

Second, we join our partners in Tribal Transportation Unity Caucus and the Rocky Mountain Transportation Planners Association in urging Congress to enact a new surface transportation bill – the Tribal Transportation Unity Act – to address tribal transportation system needs. The proposed legislation, a summary of which we included above, recognizes the capacity of Tribal Nations to deliver transportation services to Tribal membership and the public. While we support the Tribal Transportation Unity Act as developed and agreed upon last month in Denver, Colorado, our support for a guaranteed minimum funding amount of \$75,000 for small Indian tribes is expressly conditioned on the TTP Program growing sufficiently to ensure that such minimum funding level is not at the expense of large land-based tribes such as the Fort Peck Tribes. In our view, the TTP formula funding levels must be determined by considering roads, land and population. We endorse the entire package and therefore increased funding levels.

With the Tribal shares of TTP funding we receive, we hire approximately 27-30 individuals each construction season for roughly seven months. This employs members locally, who can support their families and contribute to the local economy.

With our construction dollars, we have successfully completed North Park Road, a 3.2 mile reconstruction project, replacing three large culverts, gravel, paving and chip sealing. We completed 8.4 miles of overlay-chip seal on various routes on the Reservation. We completed South Wolf Point Street, a 4 mile project of milling, leveling and overlay and we began construction of the Veterans Memorial with Montana Community Transportation Enhancement Program (CTEP) funds. We also started construction on the Detention Center Parking lot and George Washington Roads project. These projects will be paved this calendar year.

In 2014, we are also undertaking the phased construction of the 30 mile Wolf Point – Wiota project over three years. The first phase of the project will replace two metal culverts with two box culverts and mill overlay. In addition, we are undertaking a bike path/pedestrian walkway from the Airport housing addition and crossing Highway 2 to the convenience store using CTEP funds. We are also planning to construct a frontage road for a new Wellness Center being built.

This year, we received approximately \$413,000 in safety grant funding. With these funds we will restripe 26 miles of BIA routes, make road improvements to Box Elder to Blair, prepare Public Service Announcements (PSAs), and update our Tribal highway safety plan.

More than a generation ago, when this Committee was considering important changes to the Indian Self-Determination and Education Assistance Act, the Committee noted the challenges faced primarily by rural Indian tribes, especially the challenges of basic governmental

infrastructure, such as roads. I cannot think of a more tangible expression of governmental services than building and maintaining roads, bridges and transit systems that connect communities, generate jobs and protect Tribal and non-member residents every day. Transportation infrastructure is our foundation for a better tomorrow. On behalf of the Assiniboine & Sioux Tribes, I thank you Mr. Chairman and this entire Committee for all you have done for us and for all Indian tribes. I urge you to share our transportation legislative requests with the rest of the Senate. If enacted, the next highway bill will give us the tools we need in the 21<sup>st</sup> Century to not only survive, but to thrive and build our own successes.

I thank the Committee for the opportunity to present this testimony.