

**Statement of Gregory G. Nadeau
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Federal Highway Administration
U.S. Department of Transportation
Hearing on Housing and Transportation Challenges in Native American
Communities
Before the
Committee on Appropriations
Subcommittee on Transportation, Housing and Urban Development, and Related
Agencies
U.S. House of Representatives**

March 24, 2010

Chairman Olver, Ranking Member Latham, and Members of the Subcommittee, thank you for the opportunity to testify today on the transportation challenges facing Native American communities and programs administered by the Federal Highway Administration (FHWA) that provide support to Tribes to address these challenges. Accompanying me today is John R. Baxter, Associate Administrator for Federal Lands.

President Obama's meeting in November 2009 with tribal leaders from across the Nation signaled the start of a new and stronger relationship between the Tribes and the Federal government. The President made very clear that Native Americans will not be forgotten by this Administration, and he gave his strong commitment to addressing tribal issues and concerns. By establishing an Office of Tribal Liaison within the White House, the President has made sure that Native Americans will have a seat at the table when issues, including the economy, education, health care, the environment, are being discussed—issues which can all involve transportation.

Secretary LaHood shares President Obama's commitment to addressing tribal issues and concerns. Recently, the Secretary spoke before the National Congress of American Indians, emphasizing the Department's commitment to improving existing tribal transportation programs by seeking tribal input on important regulations, providing timely technical assistance, and ensuring tribes are given ample opportunities to compete for grants. The Department also finalized its Tribal Consultation Plan, a detailed plan of action the agency will take when developing, changing, or implementing policies, programs, or services with tribal implications.

In addition, Secretary LaHood has made livability a key objective for transportation. But, to improve livability in tribal communities, transportation needs are often more basic than what we see needed elsewhere in the U.S. transportation network. In much of this country, we take for granted that roads and highways will be there for children to reach their schools, for emergency vehicles to reach those in need of medical care, and for members of the community to get to work. But, in Indian Country, you cannot always make that assumption. Moreover, tribal communities need good roads to support their economic development.

FHWA has a long history of supporting tribal governments' rights to self-determination and works directly with Tribes in a government-to-government relationship. FHWA's top leadership continues to meet directly with tribal government elected officials and transportation staff, and is committed to delivering a transportation program that works for all Tribes whether they are large or small, or have a large land base or small land base.

The Indian Reservation Road (IRR) program, administered by FHWA in partnership with the Bureau of Indian Affairs (BIA), is critical to tribal communities to support these basic transportation needs. In many cases, it is the only source of revenue for transportation improvements. The goal of the IRR program is to create the best transportation system possible in balance with the environmental and cultural values of tribal lands. FHWA also works with the Federal Transit Administration and the National Highway Traffic Safety Administration (NHTSA) in coordinating transportation programs that focus on planning, safety, and construction of roads to and on reservations and serving Alaska Native villages.

OVERVIEW

The IRR system of roads provides access to and within Indian reservations, Indian trust land, restricted Indian land, eligible Indian communities, and Alaska Native villages. The IRR system consists of more than 120,000 miles of roads which link housing, schools, emergency services, places of employment, and facilitate tourism and resource use. More than eight billion vehicle miles are traveled annually on the IRR system, even though it is among the most rudimentary of any transportation network in the United States. More than 60 percent of the system is unpaved. If only BIA and tribal roads of the IRR system are considered, this number increases to over 80 percent. Within the system, there are more than 8,000 bridges and approximately 24 percent of these bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers—the most basic needs for a livable community.

The poor road quality on tribal lands also affects safety. Last year, Secretary LaHood announced that the number of traffic deaths on U.S. roads reached a record low. Despite the gains we have made on other systems, the annual fatality rate on Indian reservation roads continues to be more than three times the national average. This is an extremely serious problem. Safety continues to be the Department's top priority, and FHWA is working closely with tribes, the BIA, NHTSA, and others to address this disproportionate level of fatalities on tribal roads.

The IRR program, established in section 204 of title 23, United States Code, is the largest Federal Lands Highway (FLH) program, and it is unique due to the relationship with Federally-recognized Indian Tribal Governments under the program. The IRR program serves 564 Federally-recognized Indian Tribes and Alaska Native villages in 32 States. FHWA co-administers the IRR program with the BIA under an agreement originating in 1948 and a Stewardship Plan from July 1996.

IRR program funding has grown significantly under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), from a program size of \$275 million annually under the Transportation Equity Act for the 21st Century (TEA-21) to \$450 million annually today. This equates to a total of nearly \$1.86 billion over the life of SAFETEA-LU, not including the recent extensions. These funds have been distributed according to a tribal shares formula, which was developed through a negotiated rulemaking with tribal governments (required by TEA-21). SAFETEA-LU also increased the eligible uses of IRR program funds by allowing a Tribe to utilize up to 25 percent of its share of funds for road and bridge maintenance activities. This change allowed Tribes to supplement the funding they receive annually from the Department of the Interior (DOI) for maintenance activities. In many cases, the DOI funding has proven to be inadequate for the maintenance needs of the Tribes and this change allowed the Tribes to address critical safety, snow removal, and pavement preservation issues that otherwise could not be addressed. The increased funding and programmatic changes provided in SAFETEA-LU for the IRR program, along with an additional \$310 million provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act), discussed below, have provided tools and resources to substantially improve tribal transportation. Despite progress, however, much work remains.

SAFETY PROGRAMS

Safety remains a significant issue in Indian Country. Native Americans are overrepresented in several fatality categories--including individuals under the age of 35, unbelted drivers, and individuals driving under the influence of alcohol. Six State-based summits have been held in the past two years to focus on the subject and to bring the many safety partners together to discuss the safety issues affecting them. FHWA and NHTSA will continue these summits in the future to promote safety strategies across the four E's of safety--engineering, enforcement, education, and emergency medical services. Strategies such as Road Safety Audits and community based enforcement are proving to be effective tools for reducing fatalities.

Highway Safety Improvement Program

The Highway Safety Improvement Program (HSIP) was established by SAFETEA-LU with the overall purpose of achieving a significant reduction in traffic fatalities and serious injuries on all public roads through the implementation of infrastructure-related highway safety improvements. Since the program's inception, HSIP funding has been utilized for tribal lands projects across the country. In North Carolina, for example, a \$107,650 HSIP project along US 74 from the Haywood County line to NC 28 (North), in Cherokee Nation, funded the installation of milled rumble strips on the median and outside shoulders.

In North Dakota, two HSIP projects totaling \$300,000 provided improvements along State highways within reservation boundaries of Standing Rock Reservation and

Fort Berthold Reservation. Such improvements included the installation of shoulder and centerline rumble strips along State Highways 23 and 24.

In Wisconsin, a \$316,000 HSIP project was undertaken by the Wisconsin DOT along with the Forest County Potawatomi Tribe to improve a Tribal owned intersection at Everybody's Road and USH 8 in Forest County. The intersection project was combined with \$900,000 BIA funds and \$74,000 Tribal funds to construct a newly relocated intersection and frontage road (Everybody's Road) that leads to the Tribal headquarters offices and Tribal Community Center.

Safe Routes to Schools

The Safe Routes to School (SRTS) program is a Federally funded but State managed and administered grant program established by section 1404 of SAFETEA-LU. Each State receives not less than \$1 million each fiscal year to fund planning, design, and construction of infrastructure-related projects that will improve the ability of students to walk and bicycle to school. A portion of each State's SRTS funding must also be used for non-infrastructure-related activities to encourage walking and bicycling to school. Federally recognized Tribes are eligible sub-recipients of this State administered program.

Several States are currently engaged with Tribes to promote the SRTS program including Arizona, South Dakota, Washington, Wisconsin and New Mexico. Specifically, the Washington DOT provided SRTS funds to the Taholah School District, serving the Quinault Indian Nation, for infrastructure, enforcement and education activities. In 2008, the Wisconsin DOT provided the Lac Courte Oreilles (LCO) School, located within the LCO Reservation, a planning grant of \$24,537 to develop a comprehensive SRTS program and \$318,000 to the Oneida Nation for an SRTS-related infrastructure project. In South Dakota, the DOT provided \$15,815 in SRTS funds to the Sisseton-Wahpeton Oyate's Enemy Swim Day School for a trail to the school. The Colorado DOT worked with the Southern Ute Community Action Programs (SUCAP) which received \$13,977 to fund an education program for Ignacio in Fiscal Year 2008. The SUCAP also uses the Tribal School Zone Safety: Video and Toolkit in their SRTS program, which was developed by the FHWA Office of Federal Lands Highways. In Fiscal Year 2009, the Town of Ignacio received \$15,720 for the Ignacio SRTS Project.

SAFETEA-LU FUNDING FOR TRIBAL TRANSPORTATION

Although the IRR program is the principal funding source for tribal roads, these roads are eligible to receive funding under other SAFETEA-LU programs as well.

Indian Reservation Roads Bridge Program (IRRBP)

The Indian Reservation Roads Bridge Program (IRRBP) was established under TEA-21 and funded through a \$13 million takedown from the primary IRR Program. The program's purpose was to provide funding for reconstruction or rehabilitation of

structurally deficient or functionally obsolete IRR bridges. SAFETEA-LU amended the IRRBP by establishing it as an independently funded program, authorized at \$14 million per year, and allowing design activities to be funded. FHWA coordinated with the Indian Reservation Roads Program Coordinating Committee (IRRPCC) to implement these legislative changes. Since its inception in TEA-21, the IRRBP has provided more than \$150 million in funding to more than 275 different bridge projects in Indian Country.

National Scenic Byways Program

Indian Tribes have participated in the National Scenic Byways Program since its inception under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). SAFETEA-LU authorized the Secretary of Transportation to make grants from this program directly to Indian Tribes and to allow Tribes to nominate Indian roads directly to FHWA (without going through a State department of transportation) for possible designation as a National Scenic Byway or an All-American Road.

FHWA has participated in tribal transportation conferences to inform Tribes of these changes to the National Scenic Byways Program. FHWA also worked with the America's Byways Resource Center (Duluth, Minnesota) to establish a tribal liaison position within the Resource Center to provide technical assistance to Indian Tribes for establishing tribal scenic byways programs and designating roads as Indian Tribe scenic byways.

In addition, FHWA has modified its grant application procedures so Indian Tribes may submit grant applications directly to FHWA. In FY 2009, Tribes submitted 10 applications directly to FHWA and two applications through the State departments of transportation, requesting a total of \$1.85 million. The Department selected seven of the projects, providing a total of \$945,232 in funding.

Public Lands Discretionary Program

The Public Lands Highway Discretionary (PLHD) program provides funding to any project eligible under title 23, United States Code, which is within, adjacent to, or provides access to tribal or Federal public lands. It is another source of funding that is available to Tribes for their transportation needs. During SAFETEA-LU, nearly \$480 million dollars was made available through this program and historically, the projects were earmarked by Congress. Of the \$480 million, \$52 million was provided for 62 tribal related transportation projects

FHWA IMPLEMENTATION OF SAFETEA-LU REQUIREMENTS FOR TRIBAL TRANSPORTATION

In addition to increased funding, SAFETEA-LU brought about many changes in how the IRR program is administered and to the roles and responsibilities of all parties involved in transportation delivery to tribal communities. Prior to SAFETEA-LU, FHWA's role was to provide stewardship and oversight to the IRR program from a

national perspective, and the BIA's role was to work with the Tribes by delivering the funds and providing technical assistance. With the passage of SAFETEA-LU, Tribes now have the option to enter into IRR Program Funding Agreements and work directly with FHWA for their IRR Program share as long as they meet financial audit and management capacity requirements. The number of Tribes electing this option has grown from three the first year to more than 50 Tribes today, with several more Tribes expressing an interest to FHWA.

In response to this increase in the number of Tribes, and increased stewardship and oversight responsibilities, the Federal Lands Highway (FLH) Office, which has direct responsibility for administering the IRR program, has increased staffing and worked closely with the Tribes to develop program guidance. In addition to carrying out numerous face to face meetings with each Tribe and conducting outreach and training through webinars, regional conferences, and organized classes, FLH developed a new program manual for all Tribes, States, counties, and Federal agencies to use that communicates program expectations and roles and responsibilities, and best practices. As the number of Tribes directly contracting with FHWA continues to grow, the nature of FHWA's stewardship and oversight role will change and become a more significant responsibility and resource-intensive issue in the future.

National Indian Reservation Road Inventory

SAFETEA-LU directed FHWA to complete a comprehensive national inventory of IRR eligible transportation facilities and submit a Report to Congress. The stated purpose of the inventory was to develop the true need and cost for tribal transportation, to ensure that the data in the existing inventory is accurate, and to help streamline the procedures that Tribes utilize for updating their inventory. The inventory is the most significant factor used to calculate the tribal shares of IRR program funding; thus it is critical that data in the inventory be as accurate as possible.

FHWA completed and delivered the required Report to Congress in 2008. The Report outlined our assessment of the inventory process, including its accuracy and consistency of application. The Report included the identification of more than 100,000 miles of road as well as recommendations for improvement and additional study areas. Since issuance of the Report, the inventory has grown to more than 125,000 miles of road. FHWA is now implementing recommendations for improving the guidance used by Tribes to collect the data as well as conducting a quality check on several of the critical data fields collected for the inventory.

The IRR Inventory is extremely fluid as can be seen from its tremendous growth over the past few years. In addition, inventory updates must be made by the Tribes to reflect the improvements completed each year. This is a process that BIA oversees. For instance, a gravel road may have been paved this past year. This updated data must be submitted and a subsequent reduction in needs must be taken into account. FHWA and BIA are working together to update the guidance regarding the inventory data submittal process as well as carrying out a Quality Assurance and Quality Control review of the

data. The IRR inventory must reflect the true needs of tribal transportation but, more importantly, help to make the program fair and equitable for all Tribes.

FHWA is committed to working with the Tribes, the BIA, Assistant Secretary of Interior Larry Echo Hawk, and with all interested parties to resolve the issues related to the inventory.

OUTREACH AND CAPACITY BUILDING

Road Safety Audits and Safety Trainings

Strategies such as Road Safety Audits (RSAs) and community based enforcement are proving to be effective tools for reducing fatalities on Tribal lands. The FHWA Office of Safety sponsors training on Road Safety Fundamentals, RSAs, and works with State and local jurisdictions and tribal Governments to integrate RSAs into the project development process for new and existing roads and intersections.

An RSA examines the safety performance of an existing or future road or intersection by an independent, multidisciplinary team. It estimates and reports on potential road safety issues and identifies opportunities for improvements in safety for all road users. This tool enables localities and Indian tribes with little or no safety data to get an expert assessment on how to improve the safety of their roads.

RSAs were funded by FHWA's Office of Safety from Surface Transportation Research Development and Deployment Program for the following tribal organizations – Tohono O'odham and Navajo Nations in Arizona; Santa Clara Pueblo and Jemez Springs Pueblo, New Mexico; Standing Rock Sioux, North Dakota; the Eastern Band of Cherokee Indians, North Carolina; the Navajo Nation, Utah; and Red Cliff Band of Lake Superior, Wisconsin. These RSAs were carried out in cooperation with the State DOT.

FHWA's Office of Safety is also a co-sponsor of the *Federal and Tribal Lands Road Safety Audits: Case Studies* project, a compilation of the results of six FHWA-sponsored RSAs. It is designed to demonstrate the effectiveness of RSAs and provide Federal Land Management and tribal agencies with examples and advice in implementing the safety improvements recommended by RSAs for their jurisdictions.

Tribal Technical Assistance Program

Education and training remain significant challenges for Tribes. Many Tribes do not have a sustainable level of transportation expertise, given their size and resources. The FHWA supports a tribal transportation assistance program with seven centers serving Indian Country. These Tribal Technical Assistance Program (TTAP) centers provide a variety of training and professional development programs, technology updates, and technical assistance to enhance road management and safety. They are a key resource for basic services and to help many Tribes become self-sufficient as sovereign nations in transportation delivery. The purpose of our seven TTAP centers is to foster a safe,

efficient, and environmentally sound surface transportation system by improving the skills and increasing the knowledge of local transportation professionals.

FHWA, through the TTAPs, continues to provide technical assistance and training to Tribes on conducting their own RSAs. For example, FHWA has provided funding and support to the Northern Plains TTAP to sponsor a Road Safety Audit Outreach Coordinator, who has provided training and RSAs for the Spirit Lake Nation, the Winnebago Nation, and others.

Tribal transportation has in many ways been approached with the same assumptions for all tribes, which potentially leaves gaps in the delivery of the program to the many diverse tribes. Tribal programs fall within one of several models--tribal governments that have operating and staffed transportation departments with in-house capability and expertise; tribal governments that have taken over some functions of a transportation program; tribal governments that are administering program funds but have minimal staffing or expertise; and tribal governments that have no professional transportation staff and rely on BIA for administration of the program.

As tribal governments take on more and more responsibility for their transportation programs, there is an increased need for capacity building. Tribes often have limited personnel working in transportation and it is imperative that those employees are knowledgeable in many facets of the program from funding, to legislative and regulatory issues, technical issues, contracting, construction, and maintenance.

While FHWA has remained focused on implementing SAFETEA-LU since its enactment, the Agency has also been recently hard at work ensuring that Tribes utilize the much needed supplemental resources provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act).

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

In addition to SAFETEA-LU funding, the Recovery Act has supplemented funding for tribal communities by providing an additional \$310 million for the IRR program. During the thirteen months since the Recovery Act was signed into law by President Obama on February 17, 2009, FHWA has been working diligently to ensure that the funds for these projects are distributed quickly, wisely, and with unprecedented transparency and accountability. Federally-recognized Tribes are eligible to receive Recovery Act funding based on the IRR formula, which takes into account the highway projects' estimated construction cost, volume of traffic along the route, and the Tribe's current population. Much of the IRR portion of the Recovery Act has been dedicated to improving roads that provide critical links between tribal residences and vital community services such as schools and health care facilities.

For example, in May, the Ramah Navajo Chapter in northwest New Mexico became the Nation's first Tribe to receive direct road repair funding from Recovery Act funds. The Tribe has used more than \$644,000 to help resurface nearly 10 miles of

Ramah Navajo Route 125-- also known as Veteran's Highway--on the Tribe's 168,000-acre reservation. Route 125 is the primary north-south route through the Ramah Navajo Chapter. The route is utilized by all 3,500 registered community members because it intersects with the Chapter's headquarters in Mountain View, serves as the primary school bus route for two school districts, and is a designated evacuation route. The funds used for this project addressed pavement rehabilitation and road improvements by correcting major safety issues including sudden undulations or dips in the road; and lack of striping, signs, guardrails and hazard markers needed by drivers during inclement weather and other times of decreased visibility.

Additionally, in the summer of 2009, both the Oglala Sioux Tribe of the Pine Ridge Reservation (in South Dakota) and the Standing Rock Sioux Tribe (whose lands straddle the South and North Dakota border) began multi-million dollar Recovery Act projects to improve road quality and safety for motorists on tribal lands. These projects are on primary reservation routes that are critical to the Tribes.

On February 17, 2010, the one-year anniversary of the Recovery Act, Secretary LaHood announced \$1.5 billion in Transportation Investment Generating Economic Recovery (TIGER) Grant awards for 51 projects nationwide. U.S. DOT could provide awards to fewer than 3% of the more than 1,400 applicants, who submitted more than \$60 billion in applications for this \$1.5 billion program. One of the selected projects included a \$31 million US 491 project on the Navajo Nation in New Mexico. Administrator Victor Mendez traveled to New Mexico to meet with tribal leaders and announce this grant that same day. This area is located in McKinley and San Juan counties, which are designated as economically distressed areas. US 491 is the primary north-south highway in the rural area of northwest New Mexico and connects the local Navajo Nation to other parts of New Mexico, Colorado, and Four Corners area. It is a major trucking route with increasingly high volumes of commercial traffic. These TIGER grant funds will help to improve safety, transportation efficiency, and potential economic development opportunities for the Navajo Nation and the State of New Mexico. Specifically, this project will address such issues by providing two additional lanes and separating north- and south-bound traffic with a 46-foot median, constructing turn lanes for acceleration and deceleration in commercial and high-traffic areas, and improving intersections, signage, markings and drainage facilities. Statistics indicate the fatality rate along this roadway to be from 2.2 to 3.6 times the average State rate.

The Department also awarded a TIGER Grant to the South Dakota DOT for a \$10 million project along US 18 in Oglala and Pine Ridge, South Dakota and located on the Pine Ridge Indian Reservation. This project is located in Shannon County, which is designated as an economically distressed area. These TIGER Grant funds will serve to upgrade a 15.6 mile section of two-lane highway through the Pine Ridge Indian Reservation. Specifically, these funds will be used to construct shoulders with rumble strips, and take other measures to improve safety and diminish the high incidence of fatal crashes. Additional improvements include adding sidewalks with lighting and improving access to transit. Curbs, gutters and storm sewers will also be constructed.

FHWA, along with BIA and with input from Tribes, has developed a process that describes the requirements for Tribes to receive and obligate their share of Recovery Act funding and focuses on assuring obligation of the majority of the \$310 million before early summer, 2010. FHWA and BIA, with input from the IRRPCC, have jointly developed a Recovery Act Redistribution Guidance and are confident that all of the Recovery Act IRR funds will be obligated before the September 30, 2010 deadline. As part of the Redistribution Guidance, FHWA and BIA just completed the evaluation and ranking of 145 tribally submitted redistribution proposals valued at \$146 million. It is anticipated that the initial funding through the redistribution process will begin in the coming weeks.

Over the coming months, FHWA and BIA will continue to review the status of the Recovery Act IRR funding and make funds available for redistribution to those Tribes who are positioned to deliver projects so as to assure their total obligation.

CONCLUSION

Transportation is a critical tool for Tribes to improve the quality of life in their communities. The challenges are to maintain and improve transportation systems serving Indian lands and Alaska Native villages in order to provide safe and efficient transportation options for residents and access for visitor enjoyment, while at the same time protecting environmentally sensitive lands and cultural resources. FHWA is committed to improving transportation access to and through tribal lands through stewardship of Federal Lands Highway programs by providing balanced, safe, and innovative roadways that blend into or enhance the existing environment; and by providing technical services to the transportation community. We are also committed to building more effective day-to-day working relationships with Indian Tribes, reflecting respect for the rights of self-government and self-determination based on principles of tribal sovereignty.

Mr. Chairman, Members thank you again for this opportunity to testify. I will be pleased to answer any questions you may have.