

**TESTIMONY OF
CHARLES W. MURPHY, CHAIRMAN
STANDING ROCK SIOUX TRIBE
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
HEARING ON S. 2283
A BILL TO AMEND
THE TRANSPORTATION EQUITY ACT FOR THE 21st CENTURY
June 28, 2000**

I. Introduction

I am Charles W. Murphy, Chairman of the Standing Rock Sioux Tribe. I would like to thank the Committee for the opportunity to testify in strong support of S. 2283. This bill is critical to address the infrastructure needs of our communities. The Standing Rock Reservation consists of more than 847,000 acres in the States of North Dakota and South Dakota and a population of almost 9,000 people.

At this time I would like to take this opportunity to commend my Tribe's Transportation Director, Pete Red Tomahawk. Mr. Red Tomahawk has been a leader in Transportation for many years. Most recently, Mr. Red Tomahawk serves as a Co-Chair for the Indian Reservation Roads Negotiated Rulemaking Committee. This is a Congressionally mandated committee tasked with the responsibility of improving the management and operation of the IRR Program. Through these efforts tribes hope to improve tribal roads and transportation programs. I would also like to thank this Committee for its support of the Negotiated Rulemaking Committee. Mr. Red Tomahawk serves as Secretary and Treasurer of the Intertribal Transportation Association (ITA). He also serves as Chairman for the Northern Plains Tribal Technical Assistance Program (TTAP), located at the United Tribes Technical College (UTTC) in Bismark, North Dakota.

II. Overwhelming Need

A. Road Construction

On the Standing Rock Reservation, we are faced with dire improvement of community streets, which are paved and not properly maintained because of the lack of maintenance funds. This is a common situation regarding road construction on the Standing Rock Reservation. We are requesting

more road construction funding.

The IRR road system consists of more than 50,000 road miles. Nearly everyone agrees this figure is significantly understated because of the lack of an updated and adequate IRR roads inventory system. However, even using this admittedly low figure, it is estimated that tribal roads constitute 2.63% of all public roads eligible for TEA-21 funding. Yet, the IRR program receives less than 1% of the funds available under TEA-21 for its entire operation, whether for transportation planning, road design, road construction or simple administration of the IRR program. **On my Reservation alone, we have over a million-dollar backlog in road construction needs.**

B. IRR Maintenance

IRR maintenance funding is in dire need of increased funding for tribal/BIA contracts. Since 1982, the IRR maintenance funding decreased significantly. And tribal/BIA maintenance has been able to use a band aid effect for our roads. The BIA receives only \$25.5 million per year for IRR road maintenance. Mr. Robert Baracker, testifying for the BIA, noted that this figure works out to be less than \$500 per year for each mile of BIA-owned road, compared to \$4,000 to \$5,000 per mile of road spent annually by most state transportation departments to maintain state roads. The BIA estimates that \$100 million per year is needed to maintain BIA owned roads adequately. Increased funding for IRR road maintenance is not only the *fair* thing to do, it is the *smart* thing to do. The tribes recognize recognize that it is unwise to spend millions of dollars in federal funds to construct IRR roads and bridges only to see them fall into disrepair and lose years of useful life due to a lack of adequate maintenance. The current \$25.5 million dollar appropriation for IRR road maintenance must be increased.

D. Highway Safety

The Standing Rock Sioux Tribe has been a true leader among the 550 tribes in advancing highway safety on our Reservation. Here are a few of our successes:

- Establishing the first Native American Injury Prevention Coalition, located at UTTC in Bismark North Dakota.
- Establishing the first Native American Injury Prevention college associates degree program.
- Establishing the Northern Plains Technical Assistance Program (TTAP).

Finally, associated both with new construction and road maintenance, is the critical need for additional resources for highway safety. Currently, the death rate from motor vehicles accidents among Indian people is 6% more than the non-Indian population. The death rate from alcohol related motor vehicle deaths for Indians is more than double that of the rest of the population. In fact, death as a result of automobile accidents is one of the highest causes of mortality in Indian country. The National Safety Council estimated that in 1994, motor vehicle crashes cost the United States \$169 billion in lost wages, medical expenses and administrative costs. More important, these crashes have

cost Indian communities our people.

Tribes have limited access to most of the highway safety funds available under TEA-21. For example, incentive grant moneys for TEA-21 Section 157, the Seat-Belt Incentive grant, and Section 163, impaired driver incentive grants, each providing \$500 millions are only available to States. Chapter 1 of Title 23, where these sections appear, does not include Indian nations in the definition of "States." Therefore, we strongly believe, that additional resources must be directed to tribal highway safety programs, including vitally need road improvements, driver training, lighting, signs, seat belt enhancement and drunk driving prevention programs.

III. Obligation Limitation

It is because the needs in this area are so great that the Standing Rock Tribe strongly supports S. 2283. Specifically, Congress must amend TEA-21 to correct the obligation limitation applicability to the IRR Program. We are joined in this position by the states of North and South Dakota. I enclose and wish to be made part of the Record letters from Governor Janklow and Governor Schafer supporting this effort. As you know, while TEA-21 increased the authorized federal funding for the IRR program from \$190 million per year to \$275 million per year, it also made the "obligation limitation" applicable to IRR funds for the first time. Thus, the promised increase Congress intended has never been realized. The Standing Rock Sioux Tribe realized this error due to the fact that the 1991 ISTEA waived obligation limitation for the IRR program. The Standing Rock Sioux, along with the States of North and South Dakota, request that this error be corrected.

As you know, the "obligation limitation" requires the FHWA to withhold a certain percentage of FHWA program funds authorized to be spent from the Federal Highway Trust Fund so that they can be redistributed to high priority FHWA projects or eligible program participants at the end of the fiscal year. Some federal highway programs, such as the Emergency Relief Program and the Minimum Guarantee Program, are statutorily exempt from this process. Unfortunately, TEA-21 did not continue the IRR program's traditional exemption from the obligation limitation. By all accounts, this highly significant and *costly* change to the IRR program was not a deliberate policy choice by Congress; rather, it was a simple drafting oversight. Compounding this error, TEA-21 does not include Indian tribes among the list of FHWA program participants eligible to receive redistributed highway funds withheld under the obligation limitation. As a result, the IRR program is losing approximately \$31 million annually. Thus, while states and even other federal highway programs are reaping the benefits of TEA-21, the IRR program has been left in dire need.

In trying to develop a new and fair equitable formula to distribute IRR funds, it has become apparent that there are simply not enough funds to meet all of the needs of Indian country in this area. Even when Congress corrects this mistake and restores the approximately \$31 million that was intended to go to the IRR Program, it will not be enough. However, it will be a start. The key to community and economic development is good infrastructure of which roads are a critical part. If Congress wants to strengthen Indian communities, fixing this problem is one important beginning.

The Standing Rock Tribe's support for the removal of the obligation limitation is a position

shared among tribes and Indian people throughout the United States, as has been well-documented through the efforts of the Intertribal Transportation Association (“ITA”), the only Indian organization dedicated to representing tribal transportation interests at the national level. The Standing Rock Sioux Tribe is a proud member of this organization. In 1998 and 1999, ITA conducted a series of five town hall meetings in order to compile information regarding transportation needs in Indian country and recommendations for the improvement of tribal transportation systems. More than 400 individuals participated, including representatives from 160 tribes, the Federal Highway Administration, the Bureau of Indian Affairs, state and local governments, and other transportation-related organizations. Removal of the obligation limitation was the consensus recommendation of each and every tribal transportation town hall meeting conducted by ITA. I commend ITA for its continuing efforts to identify important tribal transportation issues for all Indian people and urge this Committee and the Administration to utilize ITA as a source for information related thereto, including of course, the overwhelming support for removal of the obligation limitation provision of TEA-21 from Indian Reservation Roads funding.

IV. Tribal Technical Assistance Programs

The Standing Rock Sioux Tribe, along with the Cheyenne River Sioux Tribe and the Three Affiliated Tribes of the Fort Berthold Reservation worked together to bring the Tribal Technical Assistance Program – TTAP – to the United Tribes Technical College in Bismark (UTTC). This program, first authorized under ISTEA, was established to assist tribal governments in extending their technical capabilities regarding transportation opportunities, grants and programs. There are now six TTAPs throughout the country. In addition to enhancing tribes’ access to various transportation resources and programs, these offices serve as an important liaison between the Federal Department of Transportation and the State Departments of Transportation. Because TTAPs have been so successful in reaching out to tribal communities and educating Indian people about transportation issues, the Standing Rock Sioux Tribe asks Congress to increase funding for this important program.

In light of the significant role that this program plays in building and sustaining tribal transportation programs, we urge the Committee to support this program and the need for increased funding for it.

V. Conclusion

On behalf of the Standing Rock Sioux Tribe, I would like to thank you for the opportunity to provide this testimony on this important issue. We look forward to working with the Senate Committee on Indian Affairs to identify and address the transportation needs of all Indian tribes.