



THE TOHONO O'ODHAM NATION OF ARIZONA
TESTIMONY OF
THE HONORABLE WAVALENE SAUNDERS, VICE CHAIRWOMAN

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES
INDIAN AND INSULAR AFFAIRS SUBCOMMITTEE
OVERSIGHT HEARING: UNLOCKING INDIAN COUNTRY'S ECONOMIC POTENTIAL

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Thank you Chair Hageman, Ranking Member Leger Fernandez, and distinguished members of the Subcommittee for this opportunity to provide the Tohono O'odham Nation's (Nation's) testimony. My name is Wavalene Saunders, and I am the elected Vice Chairwoman of the Nation. The Nation is a federally recognized tribe with more than 34,000 members. Our Reservation is one of the largest in the United States, roughly the size of the State of Connecticut, with the bulk of being rural and remote. This rural, remote character of the Nation's Reservation, and our lack of access to fully developed infrastructure, presents very significant challenges to economic development and job creation on our lands. For this reason, the Nation sincerely appreciates the Subcommittee's focus on questions related to the opportunities and challenges for economic development in Indian Country. Following below we have identified several areas in which inadequate and outdated infrastructure materially obstructs the Nation's ability to develop a healthy, diverse tribal economy and generate a varied employment base.

Roads and Transportation

It is hard to underscore strongly enough how significant an issue this is for rural tribal communities. There is no way around the fact that a tribe needs a strong infrastructure foundation in order to be able to develop a strong economic base. Reservation-based businesses must be given the opportunity to get their products – and their customers -- to the market. Where a tribe's transportation system and general infrastructure are not adequate, entrepreneurs are discouraged from developing businesses and those that do have a difficult time succeeding. For the Tohono O'odham Nation and other rural tribal communities, the remoteness of our Reservation and the extremely poor condition of our roads are significant factors preventing both tribal members and external business partners from developing businesses in our communities. We are particularly concerned about the impact on the development of small businesses, which are a priority for the Nation. We feel strongly that only when the transportation infrastructure problem is addressed can tribal communities begin to establish a healthy economic base that will support small tribal member-owned businesses and provide meaningful employment opportunities for tribal members.

Using the Nation's Reservation as an example, we have hundreds of miles of severely damaged roads, including 734.8 miles of BIA-managed roads. Due to the lack of funding for the Bureau of Indian Affairs' (BIA's) Road Maintenance Program, many of our roads are severely compromised by sink holes, pot holes, broken and cracked pavement, and washed-out bridges, making them dangerous for our members and visitors alike. During monsoon season, flooding completely washes out roads and makes them impassable, stranding our members, and isolating communities. These conditions present a real impediment to attracting business and stimulating the Reservation economy. According to the December 2018 U.S. Commission on Civil Rights report evaluating the budgets and spending of federal agencies that administer Native programs, deficiencies in transportation system infrastructure in Indian Country diminishes opportunities for development, which further impairs the ability of tribal communities to thrive. The most recent data of which we are aware confirms that BIA's Road Maintenance Program deferred maintenance backlog is still very significant, in Fiscal Year (FY) 2018 it totaled \$498 million and it continues to rise.¹

Housing and Utilities (Water, Sewer, and Electricity)

Similar to the transportation infrastructure deficiencies, rural Indian Country suffers from profound deficits in the availability of basic utilities to provide adequate drinking water, sanitation, and electricity. On the Nation, utility hookup in rural communities is extremely expensive, creating an often insurmountable barrier to the construction of the buildings from which economic development can take place. This impacts not just a potential business's operation, but also its potential workforce. More than 12 percent of tribal homes lack access to safe drinking water and

¹ NCAI FY 2022 Budget Request at 131-132, available at https://www.ncai.org/resources/ncai-publications/NCAI_IndianCountry_FY2022_BudgetRequest.pdf.

basic sanitation, which is a rate more than 20 times higher than the national average.² This fundamental deficit in the quality of life undermines the availability and retention of a ready workforce, and also poses a significant barrier to creating Reservation-based economic and employment opportunities. Similarly, without an adequate housing base for tribal employees, it is nearly impossible to address staffing issues and shortages.

Telecommunications and Internet Access

Lack of broadband access inhibits our ability to spur economic and business development, and train a technically skilled workforce for 21st-century jobs. According to the U.S. Census Bureau Community Survey Report (Sept. 2017), the Tohono O’odham Nation (TON) is facing a “digital divide” compared to nearby communities, with a large proportion of residents lacking *any* access to broadband internet. The State of Arizona’s 2018 Broadband Strategic Plan found that “162,382 people living on tribal lands (*95 percent*) have either unserved or underserved telecommunication infrastructure needs. They do not have access to fixed advanced telecommunications capabilities, and often resort to local “community anchor institutions” (libraries, schools and such) for their only connection to the rest of the digital world.”³ (Emphasis added.) The Nation appreciates Congress’ recent attention to these telecommunications, internet, and broadband issues, and urges that continued efforts in this area are critical.

Small Business Development and Support

The Nation is particularly concerned about lack of support for small businesses. We underscore the importance of empowering tribal members to develop businesses to strengthen our local economy and provide locally-sourced employment to tribal members. Not only do our potential entrepreneurs suffer from the infrastructure deficits described above, they are held back by lack of access to capital and affordable financial products and banking services and lack of access to business and legal advice. We would like to see more attention paid to the difficulties that are specific to on-reservation business development, such as the difficulties attendant to securing debt for activities on trust lands and lack of investment overall in tribal member-owned businesses. Further, the workforce available to tribal-member-owned businesses often lacks the technical and financial training needed by these potential employers. Investment in work training programs for employees inherently helps to promote and stabilize tribal member small businesses.

In sum, the Nation would like to see a greater emphasis and investment in helping potential small business owners get their businesses up and running, with an equal emphasis on getting them

² NCAI FY 2022 Budget Request at 131-132, available at https://www.ncai.org/resources/ncai-publications/NCAI_IndianCountry_FY2022_BudgetRequest.pdf.

³ Arizona Statewide Broadband Strategic Plan at 16, available at https://azlibrary.gov/sites/default/files/erate_2018_az_broadbandstrategicplan_final.PDF

the capital support, business training, and employee retention support they need to successfully grow those businesses.

Bureau of Indian Affairs Review Processes

Review and approval by BIA is required for a host of infrastructure development on Indian lands. While these approvals are meant to be protective of tribes, in reality the length of time it takes to navigate those processes and obtain those approvals can create significant barriers to investment and economic development in Indian Country. For example, according to the U.S. Government Accountability Office (GAO), BIA's lengthy processes for review of land use instruments like easements, rights-of-way agreements, and valuations have hindered tribes from pursuing energy resource development opportunities that could provide significant benefits to tribes and their members.⁴ Further, leases of tribal trust land requiring BIA approval triggers the need to comply with the requirements of the National Environmental Policy Act, which can be very expensive and the costs are born by the tribe. Additionally, establishing related easements or rights of way also require compliance with BIA regulations. While BIA revised its leasing and right-of-way regulations within the last ten years to make them less cumbersome, to include specific leasing provisions for wind and solar leases, and to include deadlines for BIA approval, those deadlines lack effective enforcement mechanisms and the BIA approval process is still lengthy. GAO recently recommended that BIA develop a process to monitor and assess agency review and response times to help ensure that BIA's process and review is more transparent and efficient, and to ensure that it is not unnecessarily hindering tribes' economic development opportunities.

We note that while Congress has worked to address this issue with the enactment of the Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act, which allows tribal governments to enact their own leasing regulations for tribal trust lands, the BIA approval process for the HEARTH Act ordinance itself can be fairly lengthy and delay tribal economic development efforts. And, regardless of whether a Tribe has an approved HEARTH Act leasing ordinance, roads and other access agreements needed for development may still require approval under BIA's right-of-way regulations, which again results in BIA approval delays.

In sum, BIA's lengthy review processes can have negative effects on tribal economic development in a host of areas where leases, rights of way, and appraisals on tribal trust lands are needed. Potential development partners often are unwilling to wait for what seem like never-ending delays in the BIA regulatory approval process, including paying for NEPA reviews because BIA does not have funding to complete them.

⁴ U.S. Government Accountability Office Priority Open Recommendations: Department of Interior (June 2, 2022) at 2, 7, available at <https://www.gao.gov/assets/gao-22-105603.pdf>.

Conclusion

The profound infrastructure challenges we face at the Tohono O’odham Nation illustrate the dismal condition of physical infrastructure in rural Indian Country generally, and the critical importance of investment in basic utilities and broadband to seed economic prosperity in tribal communities. We also underscore the need for greater focus and investment on tribal member small business owners. We welcome the opportunity to work with the Committee to find ways to lessen these challenges and to promote economic development in Indian Country.

Thank you for your time today. I am happy to answer any questions.