

Representative Teresa Leger Fernandez
Subcommittee for Indigenous Peoples of the United States

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Comment on Current Infrastructure in Indian Country

The American Indian Policy Institute (AIPI) at Arizona State University (ASU) is a research institute with a primary focus on public policy analysis and research in support of the 574 Tribal Nations in the United States. The AIPI advisory board, leadership, and staff have expertise in telecommunications, communications, broadband, digital inclusion, and technology as backbone for community and economic development. It is important to recognize that Native Nations are sovereign governments and have a government-to-government relationship with the United States. Indeed, Tribal Nations are part of the family of governments in the United States. Investment in infrastructure in Indian Country is key to meeting the obligations of the federal trust responsibility. Today, I am here to talk about the state of broadband infrastructure on Tribal lands (according to the limited and flawed data that exists), and to expand on the significance of an investment in broadband infrastructure; an infrastructure that quite literally could have saved lives if it had been in place prior to the onset of the pandemic.

In looking at the data on Tribal broadband infrastructure deployment, the survey of sources is brief. All the sources paint a bleak picture, some overstate access due to data collection methods and bias. The United States came to know the reality of the inadequacies of broadband access in not only Tribal communities, but in rural communities and in urban settings during the pandemic. Quantifying the stories we all saw last year is moot, it's time to solve the problem that exists now; a problem that impedes economic growth, community health, education, energy, and civic engagement.

According to the very recent *FCC Fourteenth Annual Report of 2021*, 79.1% of the population on Tribal lands across the United States had broadband access of 25 Mbps (download) / 3 Mbps (upload). That statistic pales in comparison to urban areas at 98.8% and rural areas at 82.7%¹ The disparity is even more apparent when disaggregating the data. Only 67.3% of Tribal

¹ Federal Communications Commission, Fourteenth Broadband Deployment Report, 33, Figure 1. (2021). <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>

Lands in the Lower 48 have broadband access.² The way that the FCC collects this deployment data, however, leads to an overstatement in coverage on Tribal lands. Just 46.5% of the population on Tribal Lands has actually adopted broadband service of 25 Mbps / 3 Mbps.³ These statistics are a best-case scenario, and yet they still speak to the digital divide in Indian Country.

In 2019, the FCC found that 25% of homes on Tribal lands do not have a wired option for even a 10 Mbps/1Mbps connection.⁴ Also in 2019, the AIPI released the *Tribal Technology Assessment*, which is an assessment of the state of the internet on Tribal lands. AIPI undertook this original research at the direction of our tribal leader community advisory board. Attached as supplementary materials to this testimony, one of the key findings of the *TTA* was that 18% of respondents on reservation lands had no internet connection at home and another 33% of respondents rely on cell phone service for home Internet connection.⁵

The need for broadband has been recognized by Tribal governments, and some have even gone so far as to build their own internet infrastructure. Using a combination of Federal and state funding, Fond du Lac Band of Ojibwe built their own fiber network in the woods of Minnesota.⁶ Coeur d'Alene Tribe operates Red Spectrum Communications in Idaho, and they use both wireless and fiber to reach residents.⁷ There are many other stories like this in Indian Country⁸ and research shows that Tribal centric models are responsive and serve community needs well and President Biden has prioritized these types of networks in the American Jobs plan.

In working to close the digital divide in Indian Country several recent pieces of legislation are a start at the foundation of a Tribal lands digital infrastructure. The Consolidated Appropriations Act of 2021 provided \$1 billion to the National Telecommunications and Information Administration (NTIA) for a Tribal Broadband Connectivity Fund. Another \$20 billion are available for water, sewer, and broadband through the Coronavirus State Fiscal Recovery

² Federal Communications Commission, Fourteenth Broadband Deployment Report, 44, Figure 10. (2021). <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>

³ Federal Communications Commission, Fourteenth Broadband Deployment Report, 46, Figure 11. (2021). <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>

⁴ Federal Communications Commission, Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018. (2019). https://aiapi.clas.asu.edu/sites/default/files/05011019fccreport_on_broadband_deployment_in_indian_country_pursuant_to_the_repack_airwaves_yielding_better_access_for_users_of_modern_services_act_of_2018.pdf

⁵ Howard, Brian and Morris, Traci, Tribal Technology Assessment: The State of Internet Service on Tribal Lands (July 27, 2019). <https://aiapi.asu.edu/Research>

⁶ Trostle, H Rose. Building Indigenous Future Zones: Four Tribal Broadband Case Studies (February 2020). Institute for Local Self-Reliance. <https://ilsr.org/report-indigenous-future-zones/>

⁷ Ibid.

⁸ Institute for Local Self-Reliance. Indigenous Broadband Networks. MuniNetworks.org. (February 2020). <https://muninetworks.org/content/indigenous-networks>

Funds in the American Rescue Plan of 2021. These should be considered only a down payment in regards to the federal trust responsibility and it is estimated that the cost to begin closing the digital divide in Indian Country would be in excess of \$8 billion.⁹

President Biden's American Jobs Plan recommends \$100 billion to bring 100% broadband coverage across America. To meet that goal in Indian Country will require significant investment. The National Congress of American Indians (NCAI) has requested \$10 billion in additional funding for the NTIA Tribal Broadband Connectivity Fund.¹⁰ NCAI has also requested the establishment of a \$1 billion Tribal Broadband Fund within the FCC for technical assistance and direct funding.¹¹ They also recommend the USDA Rural Utilities Service have a 20 percent set-aside for Tribal broadband and that the FCC's Universal Service Fund have a 5 percent set-aside as well.¹² NCAI also notes that the FCC needs to ensure that Tribal community anchor institutions, such as Tribal libraries, Tribal library consortiums, and community centers, are included in the established E-Rate program.¹³ We support these recommendations.

NCAI has also underscored the need for a \$1 billion Tribal Broadband Grant program through the Bureau of Indian Affairs as well as the establishment of a Tribal Broadband Right-of-Way Program.¹⁴ Right-of-Way is critical for speedy broadband deployment. Such a program would allow the Secretary of the Interior to delegate the authority to approve rights-of-way for broadband deployment in Indian Country. Based on the state of broadband access in Indian Country, we support these recommendations.

NCAI also recommends that Congress require the FCC to open a new 2.5GHz Tribal Priority Window in order to allow Tribal governments to apply for unassigned spectrum licenses over their own lands and to remove the restriction of only rural Tribal lands.¹⁵ We agree. At the Institute, we had also identified spectrum allocation as key to Tribal broadband in our 2019 *Tribal Technology Assessment* and in our brief on *Spectrum Airwaves: A Natural Resource that Tribes Must Leverage*.¹⁶ Spectrum should be recognized as a natural resource, and Tribal governments should be given the necessary access to it to expand broadband access quickly and effectively.

We further recommend the adoption of two other proposals from NCAI: the Tribal Broadband Interagency Working Group and the Tribal Broadband Deployment Advisory Committee.¹⁷ The

⁹ National Congress of American Indians. Infrastructure Legislative Proposal, 9 - 10 (2021). https://ncai.org/NCAI_Indian_Country_Infrastructure_Letter_-FINAL_Update-.pdf

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Howard, Brian. Spectrum Airwaves: A Natural Resource Tribes Must Leverage. (2019). https://aipi.asu.edu/sites/default/files/10.16.2019_aipi_fcc_spectrum_policy.pdf

¹⁷ Ibid.

Tribal Broadband Interagency Working Group would allow greater coordination across Federal broadband programs and develop common Federal performance measures and plans for affordable broadband access in Indian Country. The Tribal Broadband Deployment Advisory Committee would enable Tribal leaders to more easily make recommendations to Congress on how to improve Tribal broadband. In our 2019 Tribal Technology Assessment, we had highlighted the need for such an interagency working group.

Affordable broadband access in Indian Country is an urgent matter. The funding that has already been made available is just a start at closing the digital divide on Tribal lands. Addressing broadband access is only a part of the unique responsibility that the Federal government has to Tribal governments, but it is a necessary component to build stronger Tribal economies and communities together.

Thank you,



Dr. Traci Morris, PhD (Chickasaw Nation)

Proposed Lawmaker Questions:

1. Dr. Morris, you work at a research university, Arizona State University. What is your Native student population and how were they impacted, if at all, by lack of internet access during the covid lockdown in 2020?
2. You've provided references and spoke about the lack of data with regards to tribal broadband access. Why is the data problematic? Who is documenting the access? And why are there so few studies?

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