

**STATEMENT
OF
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OFFICE OF THE ASSISTANT SECRETARY FOR INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED STATES**

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Good afternoon Chair Leger Fernandez, Ranking Member Young, and Members of the Subcommittee. My name is Jason Freihage and I am the Deputy Assistant Secretary for Management (DAS-M) in the Office of the Assistant Secretary–Indian Affairs (AS-IA) at the Department of the Interior (Department). Thank you for the opportunity to present testimony regarding infrastructure investment in Indian Country.

It is well documented that there is a significant need to improve infrastructure in Indian Country. Addressing this challenge requires additional resources and strategies that demonstrate a respect for Tribal sovereignty and a collaborative approach to addressing the land, finance, and project management aspects of infrastructure development.

The 2022 President’s budget lays out the important role Indian Affairs will play to accomplish the Administration’s goals to move infrastructure forward in Indian Country. Complementing this request is the President’s American Jobs Plan, which provides a longer-term strategy to create millions of good-paying union jobs, rebuild our country’s infrastructure, and position America to out-compete others on the global stage.

Infrastructure Investment for Indian Country

It is impossible to talk about infrastructure without addressing land. Indian Affairs is focused on strengthening Tribal sovereignty over homelands and includes \$150 million in the 2022 budget to re-establish the Indian Land Consolidation Program in the Bureau of Indian Affairs (BIA) to reduce land fractionation and support climate adaptation. Similarly, the budget includes \$10 million for land acquisition for Tribes, including newly recognized Tribes and others that have no land-base. These investments, combined with improving processing times for fee to trust, leases, and HEARTH Act applications, are critical to infrastructure development in the areas I will discuss below.

Bureau of Indian Education (BIE) School Facilities

The Education Construction program supports education goals by rehabilitating schools and dormitories to provide an environment conducive to quality educational achievement and

improved opportunities for Native students. The current deferred maintenance backlog at educational facilities (non-quarters) is \$823.3 million and \$102.1 million for educational quarters. However, it is important to note that we are not only working to address deferred maintenance at BIE schools but also targeting the goal of providing modern and culturally appropriate schools that students are proud to attend. Because of this, replacing or repairing BIE-funded schools in poor condition remains a high priority. Of the 86 schools in poor status, 73 do not currently have funding for major replacement or repair projects.

The FY 2022 budget includes \$264.3 million in annual funding for Education Construction to replace and repair school facilities in poor condition and address deferred maintenance needs at campuses in the BIE school system. Education Construction funds will be supplemented by mandatory funds from the Great American Outdoors Act (GAOA). BIE is expected to receive up to \$95.0 million per year in GAOA permanent funding for priority deferred maintenance projects from 2021 through 2025.

Indian Affairs' Office of Facilities Property and Safety Management (OFPSM) and the BIE consistently coordinate to determine the latest best practices and new approaches to improve construction implementation. OFPSM, in close coordination with BIE, manages the Site Assessment and Capital Investment (SACI) Program, a comprehensive approach to assess the condition and education capabilities of bureau-funded schools as well as prioritize requirements for campus improvements. The SACI program uses a data-driven process following formalized procedures that respect Tribal sovereignty and self-determination and resulted in consensus agreements with schools, Tribes, and Indian Affairs for major renovations and new construction projects. The SACI program will result in a long-term facilities plan that is continuously updated and is adjustable to changes in education construction funding and evaluation or selection criteria. With the Replacement School Construction, Replacement Facility Construction, and GAOA funds enacted through FY 2022, Indian Affairs can fully fund replacement of all ten schools on the 2016 replacement list and up to three additional schools from the SACI program. The aging power system and the network infrastructure available in most schools will not meet our 21st Century Learning objectives when the faculty and students return to learn. Most schools require additional in-school IT staffing to adequately support the students and faculty, or maintain the school networks and computing resources. The budget includes a \$20 million increase for BIE IT needs to support upgraded broadband access at BIE schools, including recurring operating costs to maintain the education technology capacity serving our schools.

Bureau of Indian Affairs (BIA)

The BIA has infrastructure across a broad range of areas. The budget reflects the Administration's commitments to Indian Country to ensure safe Native communities and address high-priority infrastructure needs. The FY 2022 funding supports deferred maintenance projects for public safety and justice facilities; resource management infrastructure, such as irrigation projects and dams; water delivery systems; and regional and agency offices serving Tribal programs and operations in Indian Country.

The budget includes \$47.8 million for Public Safety and Justice (PSJ) Construction, including a \$5.0 million increase for Facility Replacement and New Construction. This increase is part of

the Administration's commitment to focus on Tribal public safety and address high-priority infrastructure needs. In FY 2021, Indian Affairs initiated consultation with Tribes on the development of a PSJ Site Assessment and Capital Investment program modeled on the Education construction program. This strategy will provide a data-driven approach to prioritize projects and improve timeliness of implementation.

The 2022 budget provides \$85.4 million for Resource Management Construction, which funds the repair and rehabilitation of dams, irrigation projects, and irrigation systems that deliver and store water to aid Tribal economic development. The budget proposes \$52.3 million for Dam Projects, an increase of \$13.9 million, and \$28.7 million for Irrigation Projects. The Safety of Dams program is currently responsible for 141 high- or significant-hazard dams on 41 Indian reservations. The irrigation rehabilitation program addresses critical deferred maintenance and construction work on BIA-owned and -operated irrigation facilities, including 17 irrigation projects, with a focus on health and safety concerns.

BIA is also responsible for more than 29,000 miles of paved, gravel, and earth-surface roads and more than 1,000 bridges. The 2022 budget includes \$37.4 million for Road Maintenance to support pavement and gravel maintenance, remedial work on improved earth roads, bridge maintenance, and snow and ice control.

Consistent with the Administration's commitment to ensure clean, safe drinking water and water infrastructure in Indian Country and all communities, the 2022 BIA budget includes specific investments to address infrastructure-related environmental quality issues. The budget includes \$29.9 million specifically to address water safety and sanitation requirements. This new funding will provide dedicated resources for BIA-owned drinking and wastewater infrastructure. Funding will address significant water-quality problems, including EPA-identified systems of concern.

Water settlements are an element of a proactive approach to address water availability and tribal water rights claims through cooperative strategies focused on problem-solving, rather than losing time and resources in litigation. This strategy leverages our best science to ensure we know what water resources are available, with sound water management practices and legal review to develop sustainable and targeted approaches to address water challenges. The 2022 budget includes \$270.2 million for Indian land and water rights settlement activities, an increase of \$71.9 million from the 2021 enacted level. This amount includes \$75.2 million within BIA, an increase of \$30.2 million from the 2021 enacted level, and \$157.6 million within the Bureau of Reclamation, an increase of \$36.8 million, for water rights settlements. Settlements resolve Tribal land and water rights claims and ensure Tribes have access to land and water to meet domestic, economic, and cultural needs. Many of the infrastructure projects supported by these agreements improve the health and well-being of Tribal members, preserve existing communities, and, over the long term, bring the potential for jobs and economic development. In addition to continuing payments for the Blackfeet and White Earth Settlements, the budget proposes to start annual payments in 2022 for two new Indian water rights settlements Congress enacted in the Consolidated Appropriations Act, 2021 (Pub. L. 116-260): the Montana Water Rights Protection Act, which ratifies the water rights compact entered into by the Confederated

Salish and Kootenai Water Settlement and the State, and the Navajo-Utah Water Rights Settlement. These two new agreements require \$1.2 billion in discretionary funding over 9 years. The budget also includes a proposal to reclassify funding for existing enacted Water Settlements needed by the BIA and Reclamation to meet these legal requirements to Tribes from discretionary to mandatory funding starting in 2023. This will provide Tribal nations with certainty that these commitments will be met with a dedicated, comprehensive funding source.

Crosscutting Indian Affairs Efforts

Section 105(l) leases are an increasingly important element of infrastructure investment in Indian Country. The FY 2022 budget proposes \$36.6 million to fully fund costs for signed lease agreements under section 105(l) of the Indian Self-Determination and Education Assistance Act (ISDEAA). The 2022 budget continues to request funding for Payments for Tribal Leases in a separate, indefinite current account to ensure full funding for this priority for Indian Affairs budget structure, which would be used to administer both BIA and BIE section 105(l) leases. The budget also includes a proposal to reclassify the Payments for Tribal Leases funding needed to meet legal requirements to Tribes from discretionary to mandatory funding starting in 2023. In FY 2021, Indian Affairs will conduct consultations in coordination with the Indian Health Service (IHS) on the administration of 105(l) leases.

Broadband deployment on Tribal lands continues to lag behind other areas. Indian Affairs, in coordination with other agencies (including the Departments of Agriculture, Commerce, Education, the Federal Communications Commission, and others) is focusing on increasing broadband access with different strategies to address this complex challenge. For our Indian Affairs facilities we are also increasing the broadband capacity and performance. Using funding from the CARES Act, the American Rescue Plan Act, and other COVID-19 related supplemental funding, we have increased broadband capabilities at Indian Affairs facilities and BIE Schools. We are working across Indian Affairs to maximize broadband access at all BIE school sites where those services are available. We made rapid gains over the last year to increase internet access for BIE students in remote environments. We are not content to rely solely on hotspots and jetpacks to expand access to Native students. The cost and performance of the current solutions do not satisfy remote learning and student engagement objectives. Our goal is to support the better, more expansive solutions of full connectivity infrastructure in the communities we serve as outlined more broadly under the American Jobs Plan.

Indian Affairs, in collaboration with Federal partners, developed the National Tribal Broadband Strategy as a proposed roadmap for action and investment by the Federal Government in broadband access and adoption for American Indian and Alaska Native (AI/AN) communities with the aim of eliminating the AI/AN connectivity gap. Indian Affairs has initiated activities including a review of permitting, NEPA, National Historical Preservation Act, and appraisal processes; hosting the annual National Tribal Broadband Summit; and using new GIS data to conduct a gap analysis of broadband availability in Tribal communities. The 2022 budget also includes funding for a Tribal Broadband Connectivity Program to implement the National Tribal Broadband Strategy and coordinate efforts within and beyond Indian Affairs to drive Tribal broadband development. Indian Affairs also provided technical assistance to the National

Telecommunications and Information Administration to assist in their implementation of the \$1 billion Tribal Broadband Connectivity Grant program.

American Jobs Plan

President Biden's American Jobs Plan proposes to invest tens of billions of dollars directly in Tribal communities across the country, in addition to hundreds of billions of dollars in other investments for which tribal communities are eligible. The plan supports investments for Tribal Governments, advancing key regional development and capacity-building efforts that will help Tribal communities unlock the full potential of this historic funding.

Key goals in the American Jobs Plan include 100% deployment of broadband, expansion and rehabilitation of Indian Housing, providing clean and safe drinking water through direct funding and Tribal set asides within the Clean Water State Revolving Fund and Drinking Water State Revolving Fund, and targeted funding for the Bureau of Reclamation for Tribal water settlements. The plan also proposes a doubling of the Tribal Transportation Program; this would be a historic investment to more than double the Tribal Transportation Program, currently authorized for \$2.4 billion over five years. This funding would provide urgently needed resources for often underdeveloped, unsafe, and poorly maintained road networks and hundreds of bridges in need of repair.

It is important to recognize that we need to consider infrastructure investments for the long-term health, safety, and prosperity of Tribal communities and take into account the need to invest in landscape-level resilience and conservation investments on Federal, Tribal, and partner lands, including coastal resilience programs and major landscape restoration initiatives. Tribal communities will be key partners in many of these initiatives. Similarly, rising sea levels and other climate-driven disasters require support for communities to adapt. The President's plan invests in a new Tribal transition and relocation assistance program to support planning and voluntary, community-led transitions for those Tribal communities that are most vulnerable to accelerating climate-driven disasters.

Conclusion

Much remains to be done to improve infrastructure in Indian Country. Investments proposed in the FY 2022 budget and the American Jobs Plan represent an important opportunity to gain the resources needed to improve infrastructure and advance sovereignty and self-determination.

Chair Leger Fernandez, Ranking Member Young, and Members of the Subcommittee, thank you for the opportunity to testify. I would be honored to answer any questions that you may have.