

**U.S. House of Representatives Committee on Appropriations, Subcommittee on Interior,
Environment, and Related Agencies
Testimony of Chairman Harold Frazier, Chairman of the Cheyenne River Sioux Tribe.
Submitted March 20, 2015**

Good Morning Members of the Subcommittee on Interior, Environment, and Related Agencies. My name is Harold Frazier and I am the Chairman of the Cheyenne River Sioux Tribe. On behalf of our Nation, I am here to testify today regarding the appropriations for Bureau of Indian Affairs Road Maintenance, Indian Education, School Construction, Other Construction, Law Enforcement and Tribal Courts and related Justice System funding. To understand my testimony, it is important for the Committee to understand the Cheyenne River Sioux Tribe, and the vast territory we are responsible for. The Cheyenne River Indian Reservation is one of the largest reservations in the United States. It is the size of Connecticut. The Reservation is one hundred miles long and sixty miles wide, and includes Dewey County and Ziebach Counties, South Dakota. The Cheyenne River Sioux Reservation is home to four bands of the Teton Sioux – the Minnecojou, Siha Sapa, Sans Arc, and Oohenumpa – and is located in a rural area of north-central South Dakota. The Tribal enrollment is 18,814, of which 10,564 live on or near the Reservation. About thirty five percent (35%) of the population is under 20 years of age. The unemployment rate on the Reservation is extraordinarily high. In 2014, Ziebach and Dewey counties made up (2) two of the top 5 poorest counties in the United States. To combat extreme poverty, the tribal government prioritizes spending on economic development and education. Unfortunately, as we work to address our long term future, Congress has not met its trust obligation to fund basic essential infrastructure that supports economic development. The result is that the Tribal government, with no tax base, is left with the responsibility for supplementing underfunded basic governmental services and disaster relief. We cannot afford to fund basic infrastructure and economic development at this time.

In order to be successful at economic development, we must have decent roads, water systems, and buildings to operate from and an efficient and fully funded Criminal and Civil Justice System. As you consider funding priorities, I ask you to consider basic infrastructure. As the trustee for tribal nations and owner of the fee in all tribal trust lands, the United States has a unique trust responsibility to tribal nations and tribal members to ensure funding levels for basic governmental operations are adequate. It is for this reason, and the treaty obligations set forth in the Fort Laramie Treaty of 1868, that Congress has a unique responsibility to ensure funding is adequate to meet basic needs.

TRIBAL GOVERNMENT BIA ROAD MAINTENANCE

With this in mind, I would like to address some specific areas. BIA Road Maintenance is, and continues to be underfunded to the point of gross negligence. The proposed funding level for BIA Road Maintenance has not increased in decades. Currently, the allocation to our Tribe is \$431,423.00 and this has to cover 292 miles of BIA roads, of which only two are paved. Of this, \$89,000.00 is spent on salaries of personnel. The current budget results in substantial maintenance backlogs, and the continued use of outdated equipment. The critical need for passable roadways has been left up to Tribal Transportation Programs (TTP). CRST has

repeatedly been forced to use twenty-five percent 25% of its Tribal Transportation Funds (funds transferred to BIA from DOT that are supposed to be for road construction) to supplement the BIA's road maintenance obligations. Snow and ice control take up to fifty percent 50% of an annual budget during a typical winter. The TTP funds tribes receive from the Federal Highway Administration were intended to fund road construction and replacement: not to supplement BIA road maintenance. This has tremendously hurt Tribal abilities to develop infrastructure or replace dangerous roads. Making this problem worse is the fact that TTP funds have not been equitably distributed to large tribes with only BIA owned roads due to the decision by the BIA to allow funding of off-reservation state and county owned roads in the TTP (formerly the Indian Reservation Road Program or IRR.). The roads funded include off-reservation "access roads," a term that is not defined and is being abused, and "proposed" roads that are added to tribal inventories even when they are never constructed. Amazingly, "proposed" roads receive funding year after year even when it is understood they will never be built. In 2004, the amount of money in the DOT budget under Federal Lands Highways set aside for the IRR program was \$211.4 million. In 2010, as a result of the new highway bill that was enacted, that amount increased to \$406.3. One would think that each BIA region would get an equivalent increase in the range of 92%, but due to the abuses described above, the allocation of the increase was anything but equitable. For instance, the Alaska Region's increase was 237% and the Midwest Region's increase was 389%, while the Great Plains Region, where our roads are BIA owned only increased by 53%. One tribe in the Midwest Region with almost no trust land increased its share of the Reservation Roads budget from \$1 million to \$7 in one year by adding hundreds of miles of off-reservation "access" roads. Despite our large land bases, there is not a tribe in the Great Plains Region that gets even half that amount. This is why Congress adopted statutory formula in MAP-21 that is oriented toward reservation road miles. That formula will help but it does not go far enough. Underfunding BIA Road Maintenance on the assumption the Tribal nations in our region are receiving adequate TTP funds to address Road maintenance is simply false. If you average out the BIA's total maintenance budget and divide it by BIA and Tribal road miles, tribes get about \$500 per mile. Compare this to county governments that spend just about \$8,000 per mile for maintaining gravel roads and \$16,000 per mile to maintain paved roads. Knowing this, how in the world can the BIA and OMB request only \$25 million for maintenance? Mr. Chairman and Committee Members, Indian people are being maimed and are dying in accidents because of horrible road conditions from lack of maintenance. For this reason, we support full funding of BIA Road Maintenance 160 million.

PUBLIC SAFETY AND JUSTICE

The second set of programs that need to be addressed are our civil and criminal justice programs under Public Safety and Justice. The proposed budget increases Law Enforcement funding by \$1.6 million and Tribal Courts by only \$390,000. This widens the disparity in funding already existing between Courts and law enforcement. Our current funding is at \$2.247 million which only funds 10 police officers, 8 supervisory officers and 3 detectives. It functionally means there are shifts where only two police officers are on duty to serve over 11,000 residents and to cover 4,500 square miles. Adequate funding for Cheyenne River alone would require funding at \$11 million dollars – over a 500 percent increase. Congress really needs to understand that no amount of short term pilot project and grant funding by BIA or

Department of Justice will alleviate the crisis created by this underfunding in law enforcement. Appropriations need to take into account not just population served, but the size of the area served. The cost of providing law enforcement to a territory as large as the one at Cheyenne River is much greater because of vehicle wear and tear and response times to communities. With a current budget of \$1,615.00 for training, and no funds for equipment and uniforms, officers have to buy their own equipment and their own uniforms. The wear on vehicles is immense due to the geographic size of the Reservation. The average mileage per vehicle annually at this time is 35,000. The result is high maintenance and vehicle replacement costs which strain the budget. The road miles traveled per vehicle per year averages 35,000 miles. Last year alone, there were 408 injuries to officers. The result is staff turnover because of the lack of adequate support for officers, and the stressful working conditions. The 2015 budget proposes an increase of \$1.6 million nationwide, but this is primarily for a pilot project on three reservations and does not benefit any of the other 553 Tribal Nations in this country. Pilot project short term funding is something we see all the time through Department of Justice grants. The result is even when successful, when not followed up with long term increase in base funding, it results in no improvement. For this reason, we support increased funding that accounts for these disparities in costs to provide services.

The second half of the equation in public safety and civil justice systems is the court system, prosecutor, and public defender's office. Courts at Cheyenne River are funded at only \$662,562.00. Adequate funding would require at least \$1,154,000.00 for the court and a doubling of the Prosecutor and Public defender budgets funded at \$166,000.00 and \$140,000.00 respectively. With thousands of cases, and funding for only 3 judges, 2 prosecutors and one public defender, the civil and criminal justice systems are not functioning. Backlogs result in release of offenders while awaiting charging, and inadequate time on each case. The prosecutor only has half an hour per case to prepare, and no investigator to investigate cases or interview witnesses. On the civil side, delays in child support enforcement, civil trials and debt collections for businesses make this system inadequate to provide for economic development. For this reason, we ask Congress to provide adequate base funding for the civil and criminal justice systems, and to stop funding short term grants and pilot projects. Every time law enforcement funding is increased without an increase in Tribal Court funding, the backlog of cases increases. The result is delays in trials, increased plea bargains, and inadequate victim protection. Funding for Law Enforcement must be tied to funding for Tribal Courts and Tribal Prosecutor's Offices.

BUREAU OF INDIAN EDUCATION

Another area of concern is funding for the Bureau of Indian Education. While the budget proposes increased funding, the areas increased are not School Maintenance and School Operations. They are for re-organization and administration that we do not support, and pilot projects. BIE is attempting to reorganize and move our Line Office at Cheyenne River into two separate offices – one in North Dakota and one in Minneapolis. The amount of money it will cost to travel to and from our Reservation to these offices is a waste of funding. We have 3 schools here – 1 BIE operated and 2 Tribally Controlled Schools - serving thousands of students. To split the management of these schools into two separate offices and to move them over 6 hours away is inefficient and irresponsible. Funding in Education is best spent directly in schools in ISEP funding and School Maintenance and Administration all of which are funded at

below 50% of the need. For this reason, we oppose increasing BIE administrative dollars and Pilot project funding until Tribal Nations are listened to and basic needs for maintaining school building and funding educational costs are met.

CONSTRUCTION – EDUCATION AND OTHER PROGRAM CONSTRUCTION

The final areas I want to address are funding for School Construction and School Repair and Other Construction within the BIA budgets. Presently, the Cheyenne Eagle Butte School is over 55 years old and it is crumbling. BIE has no authority to request funding for construction of a new school, because Congress has not authorized replacement construction of any additional BIE operated schools as required under 25 U.S.C. § 2005(d) since 2004. The result is the Department of Interior has spent over 10 million dollars on the Cheyenne Eagle Butte School in the past decade just to put band aids on a crumbling facility that is beyond its useful life. This is a colossal waste of money. Congress needs to authorize construction funding for new schools based not on a 2004 list, but on the current school conditions. This budget proposes to increase School Construction funds by \$2.276 million, but it decreases funding for Repair by \$2.046 million. The result is one school will be built and our School and all other federal schools will deteriorate faster. We need a new school building now. The school's heating system functions so poorly that most classrooms are only at 50 degrees during winter and teachers are using space heaters, there is mold growing on some areas, there is asbestos exposed from failing walls, floors and ceilings, and cracking from a failing foundation. It is irresponsible to put our children in this environment. Yet, Congress has not authorized funding based on present conditions.

Even worse, the proposed budget is not requesting any additional funds to Other Program Construction. The Cheyenne River agency buildings housing all BIA and Tribal government services had to be abandoned last year due to mold infestation. The BIA and the Tribe are now scattered throughout the town of Eagle Butte in borrowed space from the School and private business owners. Our Agency Records are all over the place and many are not accessible. Yet BIA has done nothing to replace facilities, or to even regain access to records. How the federal government or tribal government are supposed to operate in this chaos is simply dumbfounding to me. Yet the Budget request for Other Program Construction has been decreased by 2 million and includes no funding for a replacement building at Cheyenne River. This is unconscionable.

CONCLUSION

In conclusion, I thank you for this opportunity, and I ask that you seriously consider basic funding for infrastructure. The Department of Interior has a trust responsibility to focus resources on basic governmental infrastructure. It is time that funding is allocated based on actual need long term, instead of pilot projects and administration. Without this commitment, we will not succeed in poverty reduction or creating a stable economy. Part of this commitment must include exempting basic tribal government funding and Indian education from sequestration as well as Indian Health Service funding. Department of Interior revenues to the United States exceed its expenditures by 3.2 billion dollars annually. It is time to reinvest these funds received by the United States as a result of your access to vast natural resources under treaties with Tribal Nations back into the Tribal nations that lost their resources for the benefit of this Nation. Until this is done, the injustice of extreme poverty and lost lives will continue.