

INDIAN RESERVATION ROADS PROGRAM COORDINATING COMMITTEE

May 6, 2010

The Honorable Larry Echo Hawk
Bureau of Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Office of the Inspector General Evaluation Report (IRR Program)
(No. C-EV-MOA-0003-2009)

Dear Assistant Secretary Echo Hawk:

The Indian Reservation Roads (IRR) Program Coordinating Committee is the advisory body, established by federal regulations, to provide input and advice to the Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) concerning the Indian Reservation Roads (IRR) Program. The Committee has reviewed the Office of the Inspector General (OIG) Evaluation Report entitled "Department of the Interior Roads Programs: The Dangers of Decentralization," issued by the Inspector General in February 2010 (Report No. C-EV-MOA-0003-2009). The Committee also reviewed the Interior Department's reply memorandum issued by Deputy Assistant Secretary Pamela Haze dated April 2, 2010, and the memorandum of your Chief of Staff, Paul Tsosie, dated March 24, 2010.

The OIG Evaluation Report's findings and conclusions concerning the IRR Program are incorrect. They are based on a profound misunderstanding by the OIG of the Program, its implementing regulations (25 C.F.R. Part 170), including the funding formula, and the role Indian tribes play in updating their IRR Program inventories, and planning, prioritizing and carrying out construction projects as mandated by Federal laws (23 U.S.C. 202 et seq. and 25 U.S.C. 450 et seq.), BIA regulations, and pursuant to the terms of their federal contracts and agreements. We enclose a memorandum addressing each of the OIG's findings.

What we find especially objectionable in the OIG Report are the unsubstantiated claims that Indian tribes are untrustworthy and that the BIA and FHWA are incapable of monitoring the IRR Program to ensure its integrity. We disagree. We are working cooperatively with the BIA and FHWA to improve the performance of the IRR Program and help Indian tribes address their transportation priorities and needs.

As we detailed more fully in the enclosed memorandum, the Committee has consistently advocated for improvements in the BIA's and FHWA's administration of the IRR Program, including the IRR Inventory, but we are very concerned by the errors, factual omissions, and mischaracterizations the OIG included in its Evaluation Report. We take exception to the OIG's inaccurate and negative portrayal of Indian tribal governments' participation in this important program.

The IG's Report was requested by Congress to evaluate the Interior Department's roads programs of the Fish and Wildlife Service (FWS), the National Park Service (NPS), the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA). While critical of all four bureaus, the OIG's Report has ignored the regulatory framework within the IRR Program that fulfills the government-to-government relationship between the United States and Federally recognized sovereign Indian tribes. The OIG Report omits any reference to the IRR Program regulations developed through a statutorily mandated negotiated rulemaking process between the BIA, FHWA and tribes, that have been in place since 2004 and which govern the BIA's conduct and the conduct of Indian tribes performing transportation related activities of the Secretary.

The OIG Report found three problem areas in its review of the Interior Department's four bureaus: 1) inaccurate inventories; 2) problems with prioritization and implementation of transportation plans; and 3) deficiencies in the tracking of spending that call into question the ability of Interior bureaus to adequately detect the misuse and mismanagement of funds.

Interior Deputy Assistant Secretary Haze, in her April 2, 2010, response on behalf of the Interior Department, noted that the four targeted bureaus "indicate a concern over the factual elements in the report from which the recommendation was formed. They [BIA, FWS, NPS, and BLM] state that there were discrepancies among the road inventories illustrated, confusion in documenting which subset of roads qualify for available funding mechanisms, and a lack of detail and analysis on the internal bureau programs focused on managing transportation systems." The Coordinating Committee shares these same concerns.

Interior Deputy Assistant Secretary Haze agreed that the Department should take steps to address the OIG's legitimate findings, but "within the context of providing centralized coordination, policy and oversight, while allowing bureaus to continue decentralized execution of the program by subject matter experts." We concur with the Deputy Assistant Secretary.

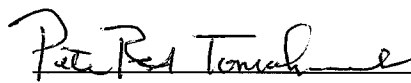
FHWA, in cooperation with the BIA, carried out a comprehensive review of the IRR Inventory and prepared a congressional report as mandated under SAFETEA-LU. Using a statistically sound sampling methodology, FHWA found discrepancies in the Inventory. Contrary to the OIG, FHWA found fault not with Indian tribes, but with deficiencies in the IRR Program Inventory Coding Guide, constrained rating criteria and other technical aspects of a newly instituted funding formula that is dependent upon accurate inventory data. See FHWA Comprehensive Inventory Report, January 2008. While the Coordinating Committee, BIA and FHWA are working to correct these deficiencies, the OIG opted to blame Indian tribes as the source of problems with the IRR Program.


The Inspector General is keenly aware that a critical report by her office carries great weight. At a time when the transportation infrastructure needs of Indian country remain acute, at

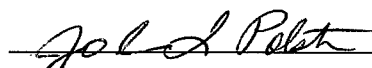
the dawn of Congress' debate on the next surface transportation bill that may well determine transportation policy in Indian country for years to come, the Interior Department's watch-dog agency has done a great disservice to Congress, to the BIA, and especially to Indian tribes by publishing a biased report that lacks factual and legal context.

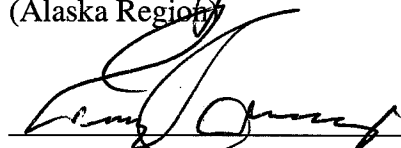
We therefore ask that you accept our attached memorandum and further request that you ask Deputy Assistant Secretary Haze to supplement the Interior Department's response to the OIG Evaluation Report by transmitting our letter and enclosed memorandum to the Acting Inspector General for her review and consideration.

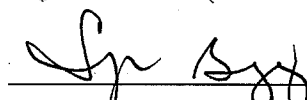
Respectfully submitted,

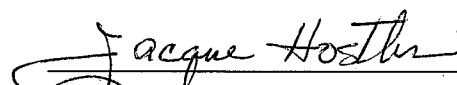

Pete Red Tomahawk, Chairman
(Great Plains Region)

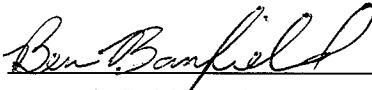

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(Alaska Region)

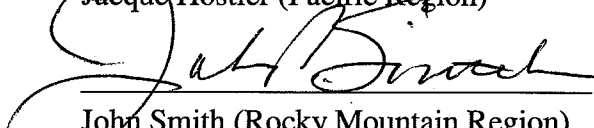

Johann Polston (Alaska Region)

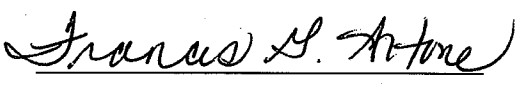

Tim Ramirez (Southern Plains)



Sampson Begay (Navajo Region)

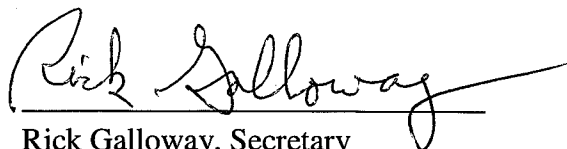

Jaecue Hostler (Pacific Region)

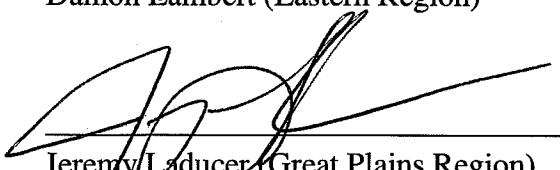

Ben Banfield (Midwest Region)



John Smith (Rocky Mountain Region)


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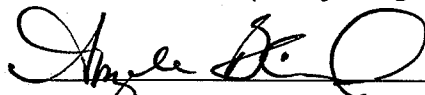

Damon Lambert (Eastern Region)


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(Northwest Region)


Jeremy Laducer (Great Plains Region)


Wilfred Frazier (Navajo Region)


Scott Quinn (Pacific Region)


Angela Blind (Southern Plains)


Mike Moilanen (Midwest Region)

The Honorable Larry Echo Hawk
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Enclosures

cc: The Honorable Ken Salazar
The Honorable Pamela K. Haze
The Honorable Victor Mendez
The Honorable John Baxter
Mr. Michael Black
Mr. Paul Tsosie
Mr. Del Laverdure
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