

**2008 ANNUAL SELF-GOVERNANCE CONFERENCE**  
*20<sup>th</sup> Anniversary of Tribal Self-Governance: Celebrating Excellence*

**Riviera Hotel & Casino; Las Vegas, Nevada**

**Thursday, May 1, 2008**

**BREAKOUT SESSION 6:**

**INDIAN RESERVATION ROADS (IRR)**

**Moderator:** Edwin Tafoya, Self-Governance Director, Santa Clara Pueblo

**Recorder:** Jernda Lawrence, Citizen Potawatomi Nation

**Panelists:** Bruce Baltar, General Counsel, Bristol Bay Native Association

Rhonda Butcher, Self-Governance Director, Citizen Potawatomi Nation

LeRoy Gishi, Chief, Division of Transportation, Office of Indian Services, BIA

Robert W. Sparrow, Jr., Federal Highway Program Engineer Office of Program

Andy Caulum, Attorney Advisor, Office of the Solicitor, DOI

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**LeRoy Gishi:**

Distributed latest run of IRR programs – If your program not on the list, contact Sharri Freeman’s office. Originally sent out last month and list has been refined. Also available from Mr. Gishi in pdf format. It has a 90% distribution. 2007 inventory are approx. 102,000 miles, 2008 expected to be about 124,000 miles. Corrections by July 15<sup>th</sup> and all data will be reviewed and put in final form. Final run by August 15<sup>th</sup>. Final fundng (adjusted by rescission amounts, etc) will have to be worked out with FHwy.

RIFDS access training began this past year. 15-20 training session with 550 individuals attending. Now 85 individuals have access to RIFDS. It is taking time for other individuals to get their security clearance for access. Regions continue to work to make those updates for tribes.

Recommendation from BIA because IRRCC cannot come to a consensus. Will continue to consult with tribes to resolve this issue. Will work through this formula issue, but probably not completed before a new administration.

**Robert Sparrow**

**IRR and the Federal Lands Highway Office:**

(Presentation will be made available—many good contacts)

IRR Program Funding Levels

IRR \$410 million authorized

\$350 million available\*

IRR Bridge Program (IRRBP)

\$14 million authorized

\$12.8 million available\*

\*Pending legislation may take an additional \$2 million ½ of 1% from programs to Tahoe

New eligible items on Bridge Program

An additional program of \$14 million/year

Structurally deficient or functionally obsolete bridges only (not new bridges)

New eligible activities (Planning & Design)

Developed an IRR Manual to cover transportation planning, etc., reflect statutory requirements and best practices that recommend files, records, etc to assist tribes in managing their programs—good reference material.

Future Challenges

Delivering a successful IRR Program with new partners

Next phase of Inventory Study/Report

New leadership at FHWA and FLH -- Administrator, Executive Director

New administration in 2009 (Secretary of Transportation)

New Reauthorization in 2010

### **Andy Caulum**

Issue for the Solicitors office

Title IV IRR Roads Addendum – If tribes submit an addendum close to model, can be turned around in less than a week—sometimes in less than an hour.

IRRCC Meetings help him understand issues and dynamics involved

Will be developing a solicitor's opinion on whether negotiated rule-making is required in current formula issue - s/b complete by end of June

Look at prospect of model agreement for Title I – based on success of Title IV

Consistency of agreements balanced with govt to govt needs

Reauthorization will probably require a new IRR model addendum

### **Bruce Baltar**

The idea of changing the formula without fully implementing the existing rules with completed inventory may be unnecessary. There are many data errors, incomplete inventories, etc. Should first work to make sure all data is complete. If, with complete data, there seems to be a problem—Any changes should go back through negotiated rule-making.

Must be some restraints in entering roads

Need to determine why IRRPCC doesn't seem to work

If there is a negotiated rule making, perhaps the system of distribution needs to be something less complex.

Reauthorization – NCAI joint task force white paper came out in Feb and has been distributed. Perhaps will expand to include more DOT programs accessible directly with FHwy.

**Rhonda Butcher** – deferred to questions

## QUESTIONS

### **Notice and Comment vs Negotiated Rule Making**

That issue was brought up prematurely because the data is still in complete

(Leroy) Some wanted to implement with inaccurate data –get it done. Others wanted to wait 5 years until data was complete. SAFETEA-LU needs to be added to the negotiated regulations. Big issue on the status of how much % assigned to roads ownership.

(D. Smith) Negotiated rulemaking is hard work.

### **IRRPCC Issues**

Spent too much time on something that was settled in negotiated rule-making. Group may be dysfunctional.

**Formula is a HUGE issue** – Funding can fluctuate a lot from year to year. Might be a good idea to separate the database from the formula – at least in its entirety. The database is so complex. Need to simplify the funding formula.

Mr. Gishi agreed that the database is very complex. Negotiated rulemaking committee at one time had 11 factors to consider, but backed off. It is very difficult to understand all the factors in the inventory. Obviously, we need to continue to review these issues.

### **Why does ownership play a role in the funding process, when the regs say that BIA is the owner?**

(Mr. Gishi) not eligible just for tribes and BIA, but can be used for other roads. How should those other roads eligible for other funds be recognized—that's why ownership is complete.

Edwin – **Security Clearances haven't been received.** Wrote letter to regional office for them to input that data.

Leroy – send info also to Albuquerque and they will assist you in following up on security clearances