



Oklahoma Tribal Transportation Council, Inc.

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Chuck Tsoodle, Chairperson
Kiowa Tribe

Jim Ramirez, Vice-Chair
Prairie Band Potawatomi

Angela Blind, Secretary/Treas.
Cheyenne & Arapaho Tribes

Larice Murdock, Member
Absentee Shawnee Tribe

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Michael Lynn, Member
Cherokee Nation

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Tom Edwards, Member
Red Plains Professional, Inc.

Wendle Carter, Member
Sac & Fox Nation

Chris Cutler, Member
Seminole Nation of Oklahoma

Harry Howard, Member
United Keetoowah Band of
Cherokee Indians

Resolution No. 09-02

To recognize the mandated negotiated rulemaking procedure, clarify the IRR transportation eligibility status, and further support the authority and jurisdiction of Tribal Nations in Oklahoma.

Whereas, the Oklahoma Tribal Transportation Council, hereinafter referred to as the "OTTC", was established in 1993 and is a duly formed organization of member Tribal Nations within the State of Oklahoma, and

Whereas, the OTTC was established to address tribal transportation issues, problems, and concerns that arise from the State of Oklahoma and the Federal Government, and

Whereas, the OTTC is aware that the United States has a trust responsibility to the federally recognized Indian Tribal Nations in the State of Oklahoma, and

Whereas, the State of Oklahoma contains second (2nd) highest number of Native Americans in the United States, primarily due to past federal policies of coercion, manipulation, and assimilation, and

Whereas, the Indian reservation and territorial boundaries in Oklahoma, often referred to as "former reservations", have not been disestablished and such lands set aside for Indians within said boundaries remain under the jurisdiction of the United States as evidenced by the Oklahoma Enabling Act, Oklahoma Indian Welfare Act, numerous court cases, and solicitor's opinions, and

Whereas, numerous federal statutes place the term "former reservations in Oklahoma" or lands held in trust and restricted allotments on the same scale as an Indian reservation, and

Whereas, the United States is responsible for providing access to Indian lands held under trust, individual Indian allotments, and Indian communities within the State of Oklahoma to which ninety percent (90%) of the federal funding available for rural road improvement is currently provided by the United States, and

Whereas, the calculation of public lands has not been updated since 1992, and therefore such calculations do not include additional lands placed into trust by Tribal Nations in Oklahoma; this, numbering in the thousands of acres, and

Whereas, such Indian lands held under trust and individual Indian allotments do not generate taxes for roadway and bridge improvement, and thus the Indian Reservation Roads Program is the only viable source of funding to address the deplorable roadway conditions in Oklahoma, and



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Iowa Tribe

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Absentee Shawnee Tribe

Milton Sovo, Member
Saddo Nation of Oklahoma

Michael Lynn, Member
Cherokee Nation

Angie Gilliam, Member
Chickasaw Nation

Saac Hawkins, Member
Chickasaw Nation

Art Muller, Member
Citizen Potawatomi Nation

Ray Ball, Member
Law Nation

R.J. Walker, Member
Sage Nation

Jeffrey Lieb, Member
Tonca Nation of Oklahoma

Tom Edwards, Member
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Whereas, Title 23 U.S.C. §101(a) defines an Indian Reservation Road as a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians, and

Whereas, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – A legacy of Users (SAFETEA-LU) specifically authorized the inclusion of roads within the former reservations of Oklahoma to become a part of the Indian Reservation Roads (IRR) system, and

Whereas, Congressional intent of SAFETEA-LU, as reference by the Conference Co-chairs on March 25, 2008, stipulated that the Oklahoma Indian roads system is to be fully eligible for IRR funding in every respect, especially in light of past formula limitations imposed by the Bureau of Indian Affairs (BIA), and

Whereas, the specific language describing the IRR funding formula, contained in the 25 CFR Part 170 Regulations, was agreed to by a negotiated rulemaking committee of tribes from every region of the United States and has remained constant from the Tribal Transportation Allocation Methodology to the proposed and final rules, and

Whereas, such regulations, through Question 10 of Appendix C to Subpart C, is based upon the functional classification system and the availability of funding to which the percentage of funding that each road should generate is identified and applied to the IRR formula, and

Whereas, seventy-five percent (75%) of the public roads in Oklahoma are not eligible for federal-aid highway funding and of the remaining twenty-five percent (25%) the highway system takes priority over rural roads on account that Oklahoma ranks among the top states with the poorest road conditions, and

Whereas, the Large Land-Based Tribes have dominated IRR funding for eighty-plus (80+) years while the Oklahoma Tribal Nations and the rest of Indian country have suffered, and

Whereas, the Oklahoma Tribal Nations, by adding previously unallowable roads to the IRR Inventory, have been unfairly characterized as “taking advantage of the system” when the IRR mileage in Oklahoma represents only 1/3 of the non-BIA and non-tribal roads and only 13% of the total system, and

Whereas, the Bureau of Indian Affairs (BIA), the Federal Highway Administration (FHWA), and the Large Land-Based Tribes have placed extraordinary emphasis on roadway ownership and maintenance responsibility as means of determining eligibility for IRR construction funding, and



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Cheyenne & Arapaho Tribes

Debra Murdock, Member
Sisseton Shawnee Tribe

Don Soyo, Member
Muskogee Nation of Oklahoma

Michael Lynn, Member
Serokee Nation

Angie Gilliam, Member
Tulsa Nation

Eric Hawkins, Member
Tulsa Nation

Tom Muller, Member
Prairie Potawatomi Nation

Ray Ball, Member
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Whereas, the highway statutes that guide the IRR program under Chapter 2 of the highway code contain no such requirement for roadway ownership as means of determining eligibility and, moreover, the maintenance requirements under Chapter 1 specifically apply to federal aid highways funded under Chapter 1, and

Whereas, the Oklahoma Tribal Nations knowingly provided easements for roadways through the Allotment Acts for the purposes of accessing tribal property to which the title of such lands remains with the Indian allottees, purchasers, and others; therefore such roadways may be established or maintained by any competent authority including tribal governments, and

Whereas, the treatment of the Oklahoma's IRR system as "county-owned roads" by the BIA, FHWA, and the Large Land-Based Tribes has no basis nor is it consistent with statutes, treaties, and executive orders that recognize the authority and jurisdiction of Tribal Nations in Oklahoma, and

Whereas, the IRR program has saved the lives of countless Native Americans in Oklahoma and thus any funding available for roadway improvement is money well spent.

Now, Therefore Be It Resolved that the OTTC hereby attests to these conditions and statements and urges the United States Congress to further clarify the IRR transportation eligibility status for the Oklahoma Tribal Nations. Furthermore, the OTTC reminds the BIA and FHWA that the Oklahoma Tribal Nations are equal partners in the IRR program of which the regulations as identified and agreed to in 25 CFR Part 170 clearly establish such a fact and thus any changes outside of the mandated negotiated rulemaking procedure would be a violation of federal law.

CERTIFICATION

We, the undersigned President and Secretary of the Oklahoma Tribal Transportation Council, at a duly called meeting on the 10th day of March, 2009, do hereby certify that the Oklahoma Tribal Transportation Council adopts by an affirmative vote of 12 for, 0 opposing, 0 abstaining, and 3 absent.

ATTEST:

Chuck Tsoodle 3-24-09
President Date

Angie Carter 03/24/09
Secretary Date