



The Rio Grande Gorge Bridge outside Taos, New Mexico, near the federally recognized sovereign territory of the Taos Pueblo.

PHOTO: CHRISTINE GREINER

# Indian Country 101

History, Geography, Policies, and Initiatives Affecting Tribal Transportation Infrastructure

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Many Americans are not aware of the homelands within the United States that are separate and apart from mainstream America. These are lands occupied by the 566 Indian tribes recognized as holding a government-to-government relationship with the United States. Called Indian reservations, pueblos, villages, colonies, and rancherias, the lands are defined by federal law as Indian Country, and they are home to the cultures, traditions, and governments of Indian communities.

The 566 tribes of Indian Country are federally recognized and are considered limited sovereign enti-

ties. The tribes make their own laws for their territories and possess sovereign immunity from lawsuits. The U.S. Supreme Court recognized that this government shield applies to Indian tribes in *Santa Clara Pueblo v. Martinez*, decided in 1978.

Federally recognized tribes are eligible to have their lands placed in federal trust status; this prevents the state or the local county government from regulating or taxing tribal lands. Tribal lands not held in federal trust, however, are considered private property and are subject to state and local taxation and regulation.

A teepee, the signature dwelling of Great Plains tribes; today, real property of a tribe recognized by the U.S. government is held in federal trust.



PHOTO: DAVID LEVINE

## Tribal Diversity

The tribal groups of Indian Country vary in population and land size. For example, the Navajo Nation has a population of more than 200,000 on territory in three states—Arizona, New Mexico, and Utah—the Navajo lands are comparable in size with West Virginia. In contrast, the Augustine Band of Cahuilla Indians in Riverside County, Southern California, is the smallest tribal group recognized by the federal government, with six members. Both tribes exercise tribal sovereignty, however.

Much of Indian Country is remote, located in rural areas like the windswept plains of the Blackfeet Reservation in Montana, the magical landscape of the Navajo, or the distant Native villages of Alaska. Two metropolitan areas of Nevada, however, are home to the North Las Vegas Paiutes and to the Reno–Sparks Colony of Indians.

Several other federally recognized tribes are located within huge urban centers in Southern California—for example, the Agua Caliente tribal members have trust allotments within the city limits of Palm Springs; some claim that Palm Springs is an Indian reservation, but others maintain it is not. Several federally recognized tribes live within the metropolitan area of the City and County of San Diego, California.

Tribes that are organized and culturally active but are not federally recognized are subject to the jurisdiction of the state. These tribes may petition for federal recognition but remain subject to the state until the process is complete and recognition is gained. Petitions for recognition sometimes take years and may not result in the desired outcome—usually because of a political conflict.

With recognition, however, tribal members are eligible for federal benefits in health care and education. The tribe then stands in a government-to-government relationship with the federal government, and the tribal real property is eligible for trust status. Generally, only a federally recognized tribe can build an Indian casino on land held in federal trust.

## Policy Setbacks

Under federal law, the U.S. Congress possesses plenary authority—that is, broad legislative power—in Indian affairs; the federal recognition for Indian



PHOTO: TAVIS S. FLICKR

Infrastructure needs in Indian Country vary widely, from roads and bridges to the raised pedestrian boardwalks of Tununak, Alaska.

tribes can be terminated at the will of Congress. In the 1950s and 1960s, “Indian termination” became a goal of Congress, but President Richard Nixon ended that policy in the 1970s. Through litigation and federal statutes, tribes that had been terminated in the 1950s and 1960s were reinstated to federal recognition in the 1970s and 1980s. Since then, the policy of Indian termination has remained dormant.

In the early 1960s, the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior launched the Indian Relocation Program that moved Indians from Indian Country to big cities to pursue the American dream. The program provided employment assistance and vocational training. Relocation sites included the San Francisco Bay Area, San Jose, and Los Angeles in California, as well as Chicago, Illinois, and Dallas, Texas.

BIA representatives told Indians that the program was an opportunity to leave the poverty of Indian reservations for economic success in urban America. For many, however, the Indian Relocation Program was a dismal failure. Trade and labor union officials, for example, would not recognize the certificates that Indians earned in big city trade schools; moreover, union membership required political connections, which Indian applicants lacked.

Some of the relocated Indians found the program misleading and intolerable. Suicides, domestic violence, alcohol and drug abuse, and persistent despair were common. Some tried to return to the reservation, but San Francisco is a long way from Pine Ridge, South Dakota.

## Turning Point

On the evening of November 20, 1969, a small group of Indian students from the University of California, Berkeley; the University of California, Los Angeles; and San Francisco State University began an occupation of Alcatraz Island, then an abandoned federal prison in San Francisco Bay. The students wanted to let the public know that the federal Indian policy of “termination and relocation” was destroying Indian people. Their message reached the world. Inquiries from abroad questioned this federal policy in Indian affairs.

On July 8, 1970, President Nixon ended the Indian termination policy and proposed Indian self-determination. Congress enacted the Indian Self-Determination and Education Assistance Act in 1975, and self-determination remains the federal Indian policy today.

Federal law provides that Indian tribes may contract with the federal government for the funds to administer services previously provided by the federal government for the communities of Indian

PHOTO: GOLDEN GATE NATIONAL RECREATION AREA ARCHIVES



Country. This includes funds to build, repair, and maintain reservation transportation facilities.

## Questions of Trust

The federal–tribal trust relationship, defined in treaties negotiated between the United States and various tribes—as well as by federal statutes and U.S. Supreme Court decisions—was created to protect Indian lands and monies. For Indian lands, the fee patent deed for the technical ownership of Indian lands is recorded at a local county recorder’s office as owned by the United States, and the “beneficial ownership” remains with the federally recognized tribe or its members.

Indian monies collected by the federal government as revenues for the tribe or tribal members and derived from the exploitation of the natural resources of Indian lands are deposited into tribal and individual tribal member accounts for safekeeping by the federal government and eventual distribution to the beneficiary.

Historically, the safekeeping of these monies has proved questionable and became the object of a major lawsuit, known as the Cobell case, in which the United States was sued for the serious mismanagement of the funds. The settlement from this case was a small fraction of the amount claimed in the lawsuit, however, and was deemed unfair to the Indian people who comprised the class of plaintiffs.

## Implementing Policies

BIA oversees Indian affairs for the federal government, with a mission to safeguard Indian assets and

PHOTO: NATIONAL ARCHIVES, NIXON LIBRARY



The occupation of Alcatraz Island in California by Indian students in the late 1960s drew worldwide attention to the inequities of the federal government’s Indian termination and relocation policy.

In the early 1970s, President Nixon met with Indian leaders and initiated policies that led to the Indian Self-Determination and Education Assistance Act of 1975.



PHOTO: WYOMING DOT

(Left to right:) Joe Dailey, FHWA; then-Federal Highway Administrator Victor Mendez; and John Smith, Shoshone and Arapaho Tribes Transportation Director, at the groundbreaking of new construction on Seventeen Mile Road on the Wind River Indian Reservation in Wyoming.

to improve the quality of life for Indian people. Although the agency has received blame for the chronic ills experienced by tribes, BIA only implements the Indian policies enacted by Congress—this can make BIA's mission to safeguard difficult.

For example, Congress initiated the Indian termination policy with House Resolution 108 in 1953, supposedly to free the Indians from federal dominance; the policy proved devious and destructive to the people of Indian Country. The resolution called for the abrogation of treaties, the conversion of trust lands to private ownership, the elimination of tribal governments, and the elimination of the legal status of federally recognized Indians. The Indian Self-Determination and Education Assistance Act of 1975 asserted the policy of Indian self-determination.

BIA historically has served as the steward of transportation facilities in Indian Country. After the self-

determination law was implemented, tribes were able to contract for the construction and maintenance of roads and bridges in Indian Country. Some tribes have contracted with BIA for these services.

BIA works with the Federal Highway Administration (FHWA) to provide federal funding and technical assistance to meet the transportation needs of Indian Country. In effect, this creates a three-way partnership, as each tribe with a transportation inventory must participate with BIA and FHWA to realize the maximum benefits of updated information, best practices, and local tribal ownership of the tribal transportation system.

## Geophysical Adaptations

Each region of Indian Country presents geophysical diversity in territorial size, density of population, methods of travel, and infrastructure of facilities:

## Tribal Road Management at the Bureau of Indian Affairs

The Division of Transportation of the Bureau of Indian Affairs (BIA) manages road maintenance and construction programs in Indian Country. Created in 1824, BIA is the oldest agency at the Department of the Interior; in 1869, Civil War General Ely S. Parker became the first Native American commissioner of Indian Affairs. LeRoy Gishi, an ex officio member of the TRB Executive Committee, heads the Division of Transportation, which also is responsible for the operation and maintenance of BIA roads and the Tribal Transportation Program (TTP), as well as for the TTP-related activities administered through the Federal Highway Administration (FHWA).

### Operation and Maintenance

BIA regional offices administer funds for the maintenance of transportation facilities on Indian reservations and within tribal communities—and of roads in the BIA road system, which are public roads and are part of the National Tribal Transportation Facility Inventory (NTTFI). Along with providing access to tribal communities and trust and fee lands, BIA roads, bridges, ferry facilities, and trails often serve as major corridors for medical, educational, commercial, and recreational uses for tribal members and for the general public.

Although the road maintenance administered by BIA encompasses preservation of the roadway template and related structures constructed with Highway Trust Funds, it does not include new road construction, improvement, or reconstruction. Nonetheless, many of the roads were not built to adequate design standards or were not meant for vehicle use; most are in poor condition and have safety deficiencies. In FY 2012, only 17 percent of BIA roads were considered to be in acceptable condition, based on BIA Service Level Index condition assessment criteria. The NTTFI also includes 930 bridges; one ferry system; and

roadway signs, protective devices, guide posts, drainage structures, and fencing.

### Tribal Transportation Program

In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) changed the name of the Indian Reservation Roads Program to the Tribal Transportation Program (TTP). Jointly administered by the FHWA Federal Lands Highway Office and the BIA Division of Transportation, TTP provides funds for planning, designing, construction, and maintenance activities for all public roads in accordance with an interagency agreement. The TTP regulations are published in the Code of Federal Regulations (25 CFR Part 170) but BIA is making revisions for the regulation to comply with the MAP-21 changes in the delivery of tribal transportation and to address concerns that have arisen since the rule was issued in 2004.

Tribal transportation facilities are public roads that provide access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaska native villages. The inventory of proposed and existing roads in the NTTFI comprises approximately 157,000 miles. Along with the 31,400 miles of BIA system roads, 26,000 miles of roads are tribal system roads, and more than 100,000 miles are under state and local ownership. TTP funds can be used for eligible transportation-related activities on tribal transportation facilities and may also be used for state or local matching shares for apportioned Federal-Aid Highway Funds.

BIA and tribal governments administer most of the design and construction of TTP projects. Under tribal self-determination contracts, self-governance agreements, FHWA program agreements, or other appropriate agreements, tribal governments can perform, administer, and operate portions of all TTP functions except those categorized as inherently federal.

◆ The Native people of the villages of Alaska have ice roads, unique roadways maintained on and off major waterways. Methods of transportation include snowmobiles, dogsleds, boats, and bush planes.

◆ The Indians on Puget Sound in Washington State use a variety of boats for travel, work, and moving freight.

◆ The Yurok and Hoopa on the Klamath River in Northern California use jet boats and other types of boats to fish, travel, and deliver supplies, with the river serving as a core transportation facility.

◆ The Indians of the Southwest use on- and off-road vehicles, as well as animals, to travel the desert and the harsh High Plains areas.

◆ The Great Lakes tribes and the eastern seaboard tribes use on- and off-road vehicles, as well as boats, with surface facilities ranging from unpaved roadways to expansive waterway routes.

The geographical makeup and location of the reservation can make the construction, repair and maintenance of transportation facilities costly, and weather conditions can limit the time frames for the work. For example, Alaska's weather window for transportation-related construction is brief.

### Trailblazing Networks

Europeans relied on many of the traditional transportation systems in exploring and claiming the homelands of Native Americans; the invaders



PHOTO: CHRISTINA DULOFF, FLICKR



PHOTO: DAVID LEVINE

Elements of transportation infrastructure in Indian Country are as varied as tribal communities themselves: ice roads in Alaska and northern Canada (*top*); off-road vehicles in the Southwest (*center*); and motorized jon boats, jet boats, and other vessels used by the Yurok to catch sturgeon in the Klamath River (*bottom*).

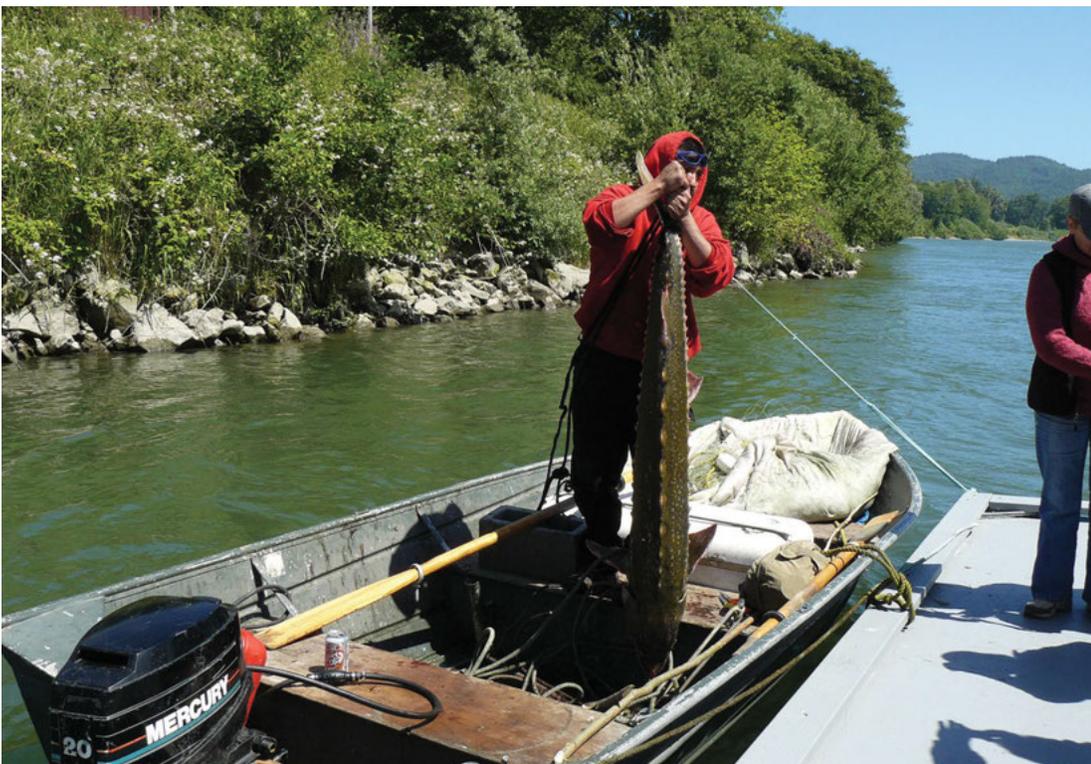


PHOTO: JOYCE CORN, FLICKR

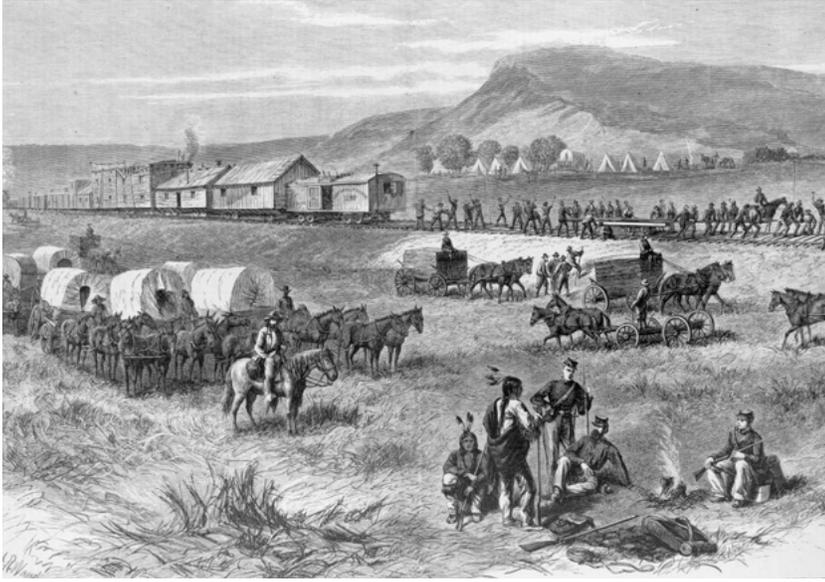


IMAGE: LIBRARY OF CONGRESS PRINTS AND PHOTOGRAPHS DIVISION

European settlers of the American West followed routes already established by Indians; drawing by A. R. Waud from an 1875 edition of *Harper's Weekly* magazine.

expanded the transportation networks already in place. Surface transportation systems were built on the many models in use before the arrival of the Europeans.

As the emerging American society moved westward across the continent, explorers, fur traders, and leaders of the wagon trains bearing settlers relied on Indian guides to blaze the trails. The expeditions named the trails after the destinations and their leaders—the California Trail, the Mormon Trail, and the Bozeman Trail, to name a few. Before the building of the transcontinental railroad, these trails and roadways were the key transportation networks. The so-called settling of the West would have consumed much more time without Indian guides following Indian trails established well before the arrival of the white man.

The Oregon Trail, the most famous of the Old West, spanned 2,000 miles from St. Louis, Missouri, to the Willamette Valley of Oregon, where Portland was founded. Initially traversed by foot or by horseback, the trails later were cleared for wagon trains. Historians estimate that 400,000 white settlers,

including farmers, ranchers, businessmen, miners, and families, traveled the Oregon Trail.

## Countering Isolation

In the 19th century, the federal government's Indian policy called for treaties with Indian tribes. The treaties confined Native Americans to reservations, separated and kept apart from the emerging American society, usually with a military guard. The roads connecting new American cities and towns changed and compromised the traditional transportation systems of Native American groups, as did the railroad tracks connecting the East and West Coasts.

The isolation of Indian reservations in time, distance, and resources historically created a tremendous challenge for the transportation infrastructure. In recent years, with the development of technology and communication, these hardships are being addressed effectively. National, regional, and local services are becoming available. State departments of transportation are communicating with tribes, and some are providing tribes with resources, breaking with precedent.

## Organizational Initiatives

The Transportation Research Board (TRB) helps support the development and management of high-quality transportation facilities in Indian Country, through the Native American Transportation Issues Committee. In 1993, TRB sponsored a conference, Exploring Solutions to Native American Transportation and Economic Development Problems, at the Flathead Indian Reservation in Polson, Montana.

The conference led to the creation of the Intertribal Transportation Association (ITA), a national organization to promote communication on transportation issues, to exchange transportation information, and to represent tribal transportation matters locally, regionally, and nationally. TRB continues to help support the goals of ITA, as the Native American association works to provide safety and quality-of-life enhancements for the communities of Indian Country through the improvement of on-reservation transportation systems.

The National Congress of American Indians also maintains a strong unit dedicated to tribal transportation issues, but ITA is the only Native organization dedicated exclusively to tribal transportation. ITA receives support from other national organizations and institutions seeking to improve the quality and safety of all American transportation systems.

## Technical Assistance

In 1991, through the efforts of FHWA, federal legislation established the Tribal Technical Assistance



PHOTO: U.S. GEOLOGICAL SURVEY

Road repair in Indian country. Improved technology and communication have allowed tribes, state departments of transportation, and the federal government to address transportation needs more effectively.



PHOTO: CONNECTICUT STATE SENATE DEMOCRATS, FLICKR

Funds from the Mashantucket Pequot Tribal Nation, as well as from state, federal, and local sources, were used to replace a bridge on Shewville Road in Ledyard, Connecticut. The road carries local traffic as well as traffic to and from the Mashantucket Pequot reservation.

Program (TTAP) to assist tribal governments in improving the quality and safety of transportation systems through education, engineering, and enforcement.

The TTAPs cover all of Indian Country, with regional centers in Oklahoma, North Dakota, Colorado, California, Washington, Michigan, and Alaska. The TTAPs operate regionally to provide

Indian Country with training, technical assistance, and technology transfer. The TTAPs promote safe, efficient, and environmentally sound transportation systems in Indian Country by improving relevant skills and by increasing technical knowledge among the tribal workforce and its leaders.

Federal funding for the TTAP centers comes from BIA and FHWA. The TTAPs disseminate information through technical publications, training programs, technology transfer, information clearinghouses, and quarterly newsletters that update regional clients on a regular basis about developments in the field, particularly about technology advances relevant to tribal transportation. The TTAPs conduct a well-attended annual national conference that offers a range of workshops for transportation professionals from Indian Country and beyond.

### Safe Infrastructure

The future of transportation facilities in Indian Country depends on capable leaders committed to improving the quality of life by ensuring a safe transportation infrastructure. The education of communities, the enforcement of traffic laws, the engineering of new facilities, and the reliance on emergency resources dedicated to transportation safety in Indian Country are the keys.

## Tribal Technical Assistance Program

### A Training and Technology Transfer Resource

In 1991, the Intermodal Surface Transportation Efficiency Act authorized the Federal Highway Administration (FHWA) to create the Tribal Technical Assistance Program (TTAP), recognizing the need to expand the Local Technical Assistance Program to serve tribal nations. Funded by FHWA and the Bureau of Indian Affairs, TTAP is a training and technology transfer resource for Native American tribes in the United States.

The program aims to

- ◆ Distribute technical assistance and conduct training at the tribal level,
- ◆ Help tribes implement administrative procedures and new transportation technology,
- ◆ Provide training and assistance in transportation planning and economic development, and
- ◆ Develop educational programs to encourage and motivate interest in transportation careers among Native American students.

TTAP engages in technology transfer and training, research, and consideration of cultural issues. In addition, the TTAP centers coordinate the Annual National Tribal Transportation Conference, recently held September 22–25, 2014, in Anchorage, Alaska. Seven TTAP centers serve U.S. regions; to learn more about TTAP, go to [www.ltap.org/about/ttap.php](http://www.ltap.org/about/ttap.php).



PHOTO: EASTERN TTAP AT MICHIGAN TECHNOLOGICAL UNIVERSITY

The Eastern Tribal Technical Assistance Program provided forklift operation training to the Stockbridge–Munsee Band of Mohican Indians.