

TRIBAL TRANSPORTATION COALITION MAJOR ACCOMPLISHMENTS

Sonosky, Chambers, Sachse, Endreson & Perry, LLP is a national law firm devoted to representing sovereign Tribal governments in a wide range of endeavors. Since the firm's establishment in 1976, we have represented scores of Tribal governments and Tribal organizations.

Our firm is a leader in the field of tribal infrastructure, construction and transportation law. We help our Tribal clients successfully develop, finance, and operate major infrastructure projects within their reservations and other tribal lands. These construction projects range from multimillion-dollar rural water projects to tribal schools, and from regional hospitals and health clinics to road, bridge, transit and traffic safety projects. These projects bring jobs to tribal communities, improve tribal infrastructure, enhance government services for Tribal members, make tribal communities safer, and generally help tribal economies grow and prosper.

Beginning in 1998, our firm has also developed a highly successful coalition of Tribal governments to advocate for greater sovereign authority and increased federal funding to help Tribes better manage their transportation programs. For example, over the last decade, our Tribal Transportation Lobbying Coalition, together with other tribal advocates, has helped increase Federal funding for Tribal transportation programs by *over a billion dollars* and expanded opportunities for Tribal governments across many transportation areas.

Our attorneys have also built solid working relationships and earned the respect of tribal, federal, and state transportation professionals, members of Congress and their staffs as acknowledged experts in the field of tribal transportation. By pooling tribal resources for the greater good of all Tribes, our Coalitions have saved our Tribal clients money and have increased the Coalition's effectiveness through collaborative efforts before Congress and federal agencies.

Our Tribal Transportation Coalitions actively work to shape and influence federal transportation policies and programs serving Indian Country. From the beginning, our Transportation Coalitions have achieved significant breakthroughs to improve tribal government-to-government dialogue and collaboration. We work constantly to eliminate barriers that prevent Tribes from assuming full control over transportation projects affecting their communities and Tribal members.

We now seek to grow our Tribal Transportation Coalition so that we can continue to offer low fees and cost to Coalition members, while continuing to provide the highest quality legal service and advocacy in the tribal transportation area. Increasing the number of Tribes participating in our Coalitions will also permit us to assist Tribal representatives to the Negotiated Rulemaking Committee established by the Department of Transportation. The committee will be responsible for drafting proposed regulations to implement the Tribal Transportation Self-Governance Program within the Department of Transportation as authorized under the FAST Act.

If your Tribe is interested in joining our Tribal Transportation Coalition or would like more information about our firm, please contact Jim Glaze at jglaze@sonosky.com, telephone (626) 387-9329 or Matt Jaffe at mjaffe@sonosky.com, telephone (202) 682-0240.

Here are just a few of our Tribal Transportation Coalitions' recent accomplishments:

- Successfully advocated for increased annual funding for the TTP and Tribal Transit Programs by \$200 million over MAP-21 enacted levels, extended tribal self-governance laws to USDOT and increased tribal access to federal transportation grants in the Fixing America's Surface Transportation Act (FAST Act), Pub. L. 114-94, signed into law on December 4, 2015.
- Successfully advocating for the Obama Administration to appoint the *first* Deputy Assistant Secretary for Tribal Government Affairs to serve in the Office of the Secretary within USDOT to coordinate transportation policies affecting Indian tribes among all the Department's modal administrations and serve on negotiated rulemaking committees that impact the Tribal Transportation Program.
- Convinced FHWA and BIA to change its fund transfer policies to make it much easier for Tribes to access State and municipal administered transportation funds (i.e. the new 202(a)(9) policy).
- Prepared comments and worked with FHWA and BIA to make the Part 170 regulations more beneficial to tribes.
- Worked to change the BIA Right-of-Way (ROW) regulations to make it easier for Tribes to dedicate their own land for public highway purposes.
- Currently working with a Member of Congress to develop legislation to require the BIA to upgrade and modernize its ROW record-keeping systems, to provide Tribes information on all its ROWs, and to pay Tribes for errors in past ROW records that negatively impact them.
- Submitted comments to ensure that FTA and the Veterans Affairs Department make more grant funds available to Tribal veterans for transit and other transportation services.
- Submitted comments to advocate with FTA for transit safety rules that are respectful of the unique needs of Tribal transit agencies.

Additional major accomplishments in on Tribal transportation issues include:

- We led the national effort to increase federal funding for Tribal transportation programs from \$275 million to \$450 million under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).
- We were instrumental in creating the FTA's first Tribal Transit Grant Program, now funded at \$35 million per year, and we worked to create the Tribal Scenic Byways Program and a separately funded IRR Bridge Program in SAFETEA-LU.

- We led the effort in Congress to ensure that all Tribal governments would receive an additional \$453 million in 2009 for road construction and road maintenance projects under the American Reinvestment and Recovery Act (ARRA); the stimulus bill.
- We negotiated the first FHWA (Federal Highway Administration) IRR Program Agreements and Referenced Funding Agreements (RFA) on behalf of the Standing Rock Sioux Tribe, the Assiniboine & Sioux Tribes, the Oglala Sioux Tribe, the Ramah Navajo Chapter and the Chickaloon Native Village. The IRR Program Agreement and RFA have become the model for all FHWA Tribal transportation agreements and were largely copied by the BIA for its Government-to-Government Tribal Transportation Program Agreements.
- We negotiated the first Tribal Self-Governance Compact for Tribes to assume full control and annual advance funding for the IRR Program and worked out a streamlined process for IRR Program self-governance negotiations that Tribes may use if they wish.
- We persuaded the FHWA and the U.S. Department of Justice to recognize that Tribes working under FHWA IRR Program Agreements are entitled to the same legal protections under the Federal Tort Claims Act (FTCA) as Tribes working under Indian self-determination and self-governance agreements.
- We led an effort to break down bureaucratic barriers to speed the transfer of Emergency Relief for Federally Owned Roads (ERFO) Program funds to Tribal governments.
- We negotiated many of the first Tribal-State funding agreements to transfer Federal-Aid and other transportation funds to Tribes, free from the most burdensome and unfair contract requirements.
- We regularly brief Congressional staff and have helped to secure many Senate Committee on Indian Affairs oversight hearings to build a solid congressional record of Tribal transportation needs and Tribal accomplishments in order to secure future support for Tribal transportation funding increases and other beneficial legislative changes.
- We worked with FHWA and U.S. Treasury Department officials to ensure that Tribal transportation funds received under FHWA IRR Program Agreements are exempt from the U.S. Department of Treasury Debt Collection Offset Program, to prevent delays or reductions in the amount of Federal funds reaching some Tribal governments.
- We helped oppose the Bush Administration's effort to cut BIA Road Maintenance Program funding in half under the mistaken belief that IRR Program construction funds, when repurposed for road maintenance needs, were in lieu of, and not supplemental to, BIA Road Maintenance Program funds. We continue to advocate for increases in annual appropriations for the BIA Road Maintenance Program and highlight the impact to transportation safety in Indian Country resulting from inadequate maintenance.
- We worked to ensure that all Tribally-owned roads and bridges were eligible for funding under the new Federal Lands Access Program (FLAP) created by the Moving Ahead for Progress in the 21st Century highway legislation (MAP-21).

- We worked with FHWA and Department of Interior attorneys to ensure that Tribes could continue to hire their own Tribal members under their individual “force account” policies and could also maintain their own Tribal procurement and TERO policies, despite legislative changes in MAP-21.
- We negotiated first-of-their-kind road construction and road maintenance partnership agreements with several State Departments of Transportations, and these agreements have been used as a model for other Coalition Members.
- We worked to amend a State law to allow for the sale of gravel and other construction materials to Tribes at discounted rates.
- We have worked to develop model tribal-state transportation agreements and federal legislation making it easier for Tribes, states and municipalities to collaborate on joint transportation projects.
- We continue to attend and provide legal support at the regulatory advisory body, the Tribal Transportation Program Coordinating Committee (TTPCC), and help develop consensus committee recommendations for the BIA and FHWA leadership.
- We regularly keep our Tribal Coalition members informed of changes in transportation laws, regulations, and agency policies through e-mail updates, firm memoranda, and frequent participation in Tribal transportation conferences, meetings, panels, training events, and consultation sessions.
- We worked with FHWA officials to ensure that new FHWA policy changes would not interfere with the ability of Indian tribes to claim a proper of amount of contract support costs when administering the Tribal Transportation Program.

Coalition participation gives individual Tribes an opportunity to voice their collective concerns in a cost-effective manner. Member Tribes shape our Coalition’s legal and legislative strategies with the goal of increasing federal funding for Tribal transportation infrastructure to improve the lives of your Tribal members. By working together, Tribes can dramatically improve the Federal programs that provide critical tribal transportation funding, spur Tribal economic development and reduce the high rate of traffic injuries and deaths in Tribal communities.

Respectfully,

SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP