

**TESTIMONY OF STEVEN A. KELLY
MANAGER AND OWNER OF
TRUSTLAND OILFIELD, LLC AND TRUSTLAND CONSULTANTS, LLC
FOR THE SENATE BUDGET COMMITTEE FIELD HEARING
AT THE FOUR BEARS CASINO ON JULY 8, 2010 REGARDING:**

**“TRANSPORTATION INVESTMENTS: PROMOTING ECONOMIC
GROWTH AND IMPROVING SAFETY ALONG ND 23.”**

Mr. Chairman & Congressman Pomeroy:

Good morning to both of you and thank you for providing me with this opportunity to provide testimony at this hearing and on this very important matter.

My name is Steve Kelly and I am a proud member of the Three Affiliated Tribes and the Manager and Owner of Trustland Oilfield Services, LLC and Trustland Consultants, LLC located here in New Town, North Dakota. My Trustland Oilfield Services provides trucking and roustabout services to oil companies and Trustland Consultants provides mineral and land related services. Both of these companies were started as a direct result of the Bakken activity here on the Fort Berthold Reservation and western North Dakota. Between these two companies I employ approximately fifty-five (55) people. Both companies have employees traveling ND 23 and the surrounding rounds every day and I estimate that these companies will log over 700,000 miles on these roads in 2010 alone so we are very familiar with ND 23 and all other roads that run within and through the Fort Berthold Reservation.

As you know, ND 23 serves as a main artery to all transportation moving east and west through the Fort Berthold Reservation and western North Dakota. This highway is vital to the development of the agricultural and energy industries and to the general flow of goods and services that support these industries and our economy here and western North Dakota. The importance of this road to our local economy cannot be overstated.

ND 23 was built to serve “rural traffic” and has served us well in the past. However, the recent growth of the oil industry in western North Dakota and the sudden and shocking influx of truck traffic on this highway have made it

very clear that this road, as currently constructed, is inadequate for the traffic that burdens it on a daily basis. Simply put, Highway 23 is unsafe and a hindrance to the efficient development of the energy services in this part of North Dakota.

When I sat down to write this testimony, I immediately recalled six serious accidents in the last two and one-half years that happened on ND 23. Three of these accidents happened east of New Town and three occurred west of New Town. These six accidents resulted in eight deaths and three serious injuries. All of the people involved in these accidents lived here or were raised here in his part of the country. I truly believe that at least three of these accidents may not have happened if ND 23 was wider.

ND 23 is Unsafe for the Present Traffic.

From a trucking standpoint, I have this to say about Highway 23 is this: "Nice ditches". Although I am being somewhat facetious, I say this because there is no place for a semi-tractor or other vehicle to go other than the ditch. The shoulders of the highway are so narrow that a vehicle has to literally pull off onto the grass in order to safely pull off the road. Semi-tractors have to be very careful in pulling off the road this far for fear that the tractor and trailer may tip over in the ditch.

My statement about the "narrow" and unsafe shoulders on ND 23 only applies to Highway 23 east of New Town and west of the reservation. This statement does not apply to the stretch of ND 23 west of the Four Bears Bridge to the west boundary of the Fort Berthold Reservation **because there are no "shoulders" on ND 23 on this stretch of road!** This is a problem not only for trucks, but also the general public. There is no place to pull over to wait out snow storms, fog or any other weather. There is no place to swerve to avoid hitting a deer or person. No place to change a flat or deal with any other emergency that could occur. When the road crews came through and reconstructed the surface of ND 23 on this stretch of road they did not extend the surface to the same width as the previous shoulders. I have to wonder if such shoddy construction on ND 23 would have been acceptable if it occurred east of New Town.

Furthermore, the "abrupt" edges of the road truly make this stretch of road treacherous. Vehicles that fall off the edge of road in this stretch have a hard time getting back up on the road and tractor-trailers that fall of the

edge end up “swinging” back on and crossing the center line if they do get back on and don't end up in the ditch. Also, and ironically, the ditches on this stretch of road aren't as wide or as nicely sloped as the ditches on ND 23 east of New Town.

This problem is compounded by the fact that there is a bar located in this stretch of road and a lot of foot traffic from the Four Bears Casino to the Four Bears village. If I have trucks hauling to a frac job from New Town to a location west of New Town, we shut down at 10:00 p.m. every Friday and Saturday nights or haul water from Watford City in order to avoid the perils this stretch of road offers during these hours.

Another problem area on ND 23 is the stretch of road from New Town to Parshall, ND. There is a lot of oil activity and thus a large volume of daily traffic in this area north and south of ND 23. The stretch of road between New Town and the turn-off onto ND 8 to Stanly, ND is particularly dangerous because of the steep hills located in this stretch of road. There are pass lines on this stretch but passing on this stretch of road is particularly dangerous. It is my opinion that passing should not be allowed in this stretch of road and that four lanes are definitely needed in this stretch.

Another problem area I would like to mention is the junction of ND 23 and ND 22. The State of North Dakota needs to put up blinking red lights on the warning sign and stop sign on ND 22. For whatever reason, many vehicles have “blown” this stop sign and gone right through it and across ND 23 and into the ditch and field on the other side. A “landing pad” should also be developed across from the stop sign in order to minimize damage to vehicles that run through this sign.

Recommended Solutions.

1. Construction of four lanes on ND 23.
2. Construction of four lanes on ND 23 from Parshall west to Watford City or to the junction of ND 22.
3. Construction of four lanes from the junction of ND 23 and ND 8 to Watford City or the junction of ND 22.
4. If four lanes cannot be constructed, many turn lanes and passing lanes need to be constructed along ND 23 in order to minimize the disruption of traffic in a lane.

5. A walking path for pedestrians should be built from the Four Bears Casino to the Four Bears Village.
6. Flashing red lights on the warning sign and stop sign where ND 22 meets ND 23.

Order of Priority.

1. The stretch of ND 23 west of the Four Bears Casino needs to be addressed as soon as possible. This stretch of road is truly dangerous. A walking path should be built immediately.
2. The stretch of ND 23 east of New Town to the junction of ND 8. Four lanes are needed immediately for this stretch of road.

ND 23 Inhibits the Efficient Development of Our Energy Resources.

ND 23 is not built thick enough to handle heavy loads associated with the oilfield when the frost comes out of the ground in the spring. Every year, the state imposes road restrictions on ND 23 and other highways throughout the state. These restrictions are generally imposed in early March through May. These restrictions limit how much weight a semi tractor can haul. For instance, we can normally haul eight tons per axle on our trucks and trailers. During road restrictions, trucks are limited to seven or six tons per axle. Thus, trucks must make more trips when road restrictions are on then when they are not on. This cost oil companies a lot of money and many of them choose to minimize the amount of hauling they do when road restrictions are observed by the State. The only remedy to this problem is to build a thicker road that will handle regular loads in the spring.

Let me give an example of the effects that these road restrictions have on a frac job.

On average, an oil company will use 50,000 barrels of water on a frac job. When there are no road restrictions we can haul 120 to 130 barrels of water per trip depending on the weight of the trailer. When road restrictions are on ND 23, we can only haul about 80 barrels to the location.

Under normal conditions, it would take approximately 416 trips to provide 50,000 barrels of water for a frac job to location. When road restrictions are on, it would take approximately 625 trips. This amounts to a fifty percent increase in cost for delivery of the same product for frac job in the spring as opposed to a frac job that occurs in the summer when road restrictions are off. These costs also apply to other products, such as sand, that are trucked to location for a frac job. Obviously, oil companies take a look at these inflated costs and many of them choose to not frac during road restrictions in order to avoid these costs.

An oil company's decision not to frac during road restrictions causes havoc in many ways. First of all, this results in a slow time of the year for companies like mine that provide trucking services and I have to lay off drivers and then re-hire drivers when things get busy. Second, oil companies try to "catch-up" on fracing in the summer and fall. This means that we have more trucks on the road than we would or should have if companies would have fraced their wells during the spring. Roads that allow companies to work year round without road restrictions results in stability for the oil company, the oil services company and all ancillary businesses. If this is a desired result, it is important that ND 23 be re-constructed in such a way that road restrictions are unnecessary.

Although this is a problem for the oil industry, I would like to point out that this also affects other industries and the general public negatively. Because the roads are thin and more trips have to be made, the wear and tear on the roads continues with more usage. This causes not only unfavorable, dangerous driving surfaces, it forces more traffic onto the roadways slowing everyone down and increasing opportunity for accidents.

Ancillary Roads.

I recognize the focus of this hearing is ND 23. However, ND 23 feeds ND 22, many county roads and BIA roads and I believe I would be remiss if I did not mention that these roads are in dire need of help. The "loop" road on the peninsula south of New Town is completely decimated. Portions of this road are owned by the Mountrail country and the BIA. This road is completely decimated and needs to be completely rebuilt in a way to sustain the traffic it endures on a daily basis.

You should also know that BIA Roads 12, 14, and 17 are also in very, very bad shape. The Tribe could desperately use federal money to re-build and maintain these roads.

Economic Development Along ND 23

Another company I recently started up received water permits from the Three Affiliated Tribes for water load out facilities to be located 3 miles east of New Town and on the east side of the junction of ND 22 and ND 73. Both of these facilities are strategically located to reduce traffic in New Town and on highways ND22 and ND23. We have put in for permits and easements at the US Corps of Engineers in Riverdale to place our pumps in Lake Sakakawea. Our friends at the Corps recently informed me that they will not issue any permits or easements until they have concluded a study on water storage costs that may be assessed on the water used by such facilities. I had hoped to have these water load out facilities in service by August of this year. However, the Corps recent decision will delay operation of these facilities until at least May, 2011 unless common sense intercedes and prevails.

I strongly oppose the Corps assessment of any storage fees against the Tribe's water. Even if fees are ultimately assessed, I certainly don't understand why studies need to be conducted to determine the amount of the storage fees. I could, however, understand it taking the Corps eight months to think up a justification for water storage fees. I do not think that progress should be hindered for *this* reason.

Any assistance you may be able to provide to resolve this problem would be greatly appreciated.

Thank you for the opportunity to appear today and provide this testimony to the Senate Budget Committee.