

Op-Ed: Tribal Spectrum Rights

By: Darrah Blackwater



Ms. Blackwater installing broadband internet at Diné College

What do sweatpants, divorce lawyers, and the internet have in common? They have all become increasingly important in 2020 because of the coronavirus pandemic. This year the internet has become a lifeline, allowing students to continue their education online, coworkers to work from home, and healthcare workers to monitor data and deliver telehealth.

This past March I left campus for spring break in my third and final year of law school. Like all other students, I had no idea that I would be finishing my law degree online from that point forward. I had the luxury of an easy transition to online classes, as I own a laptop and had access to fast and reliable internet in my Tucson apartment. However, not all students experienced such an easy transition to online classes: many Native students went home to reservations that have no or little access to broadband internet. The American Library Association reports that seven in ten residents on rural tribal lands remain without access to fixed high-capacity broadband.

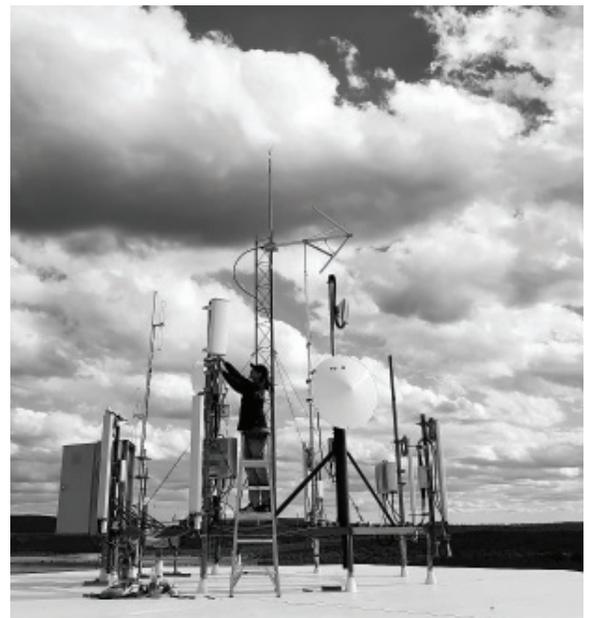
The University of Arizona searched for solutions on the fly. They set up parking lot WiFi at their agricultural sites in tribal areas, which were already connected for smart-ag purposes. It was the University's attempt to put a bandaid on the gunshot wound that is the digital divide in rural, tribal communities.

In order for Indigenous communities to reap economic, health, and educational opportunities, internet access is imperative. However, Indigenous communities remain among the least connected in North America.

When university campuses across the nation closed down, many Native students returned to homes without an internet connection capable of playing videos and uploading assignments.

While COVID-19 is illuminating the colossal crevasse between the connected and the unconnected, this is not a new problem. Tribal advocates have known for decades that the digital divide in Indian Country is creating inequity. The Government Accountability Office (GAO) has repeatedly admonished the Federal Communications Commission (FCC) for making radio waves called spectrum (a natural resource) and other telecommunications necessities almost completely inaccessible to Tribal Nations. In 2018, the GAO said the FCC "has done little to promote and support tribes' access to radio frequency spectrum that can be used for such wireless service."

A broadband internet connection in Indian Country can mean the difference between life and death, especially in COVID-19 hot spots, where telemedicine and online services would help keep infection rates lower by allowing more people to stay home more often.



Broadband internet system at Diné College

It is easy to talk about the problem, but it is more fun to talk about solutions. The State of Hawaii set out to solve their digital divide last year with the help of two non-profits called MuralNet and the Internet Society. The tribal government partnered with these organizations to create a sovereign community broadband network, with much higher speeds and lower rates than their former, big telecom service-provider.

In line with those recommendations, the FCC opened a tribal priority window from February to September of 2020, extending a novel opportunity for Native Nations in tribal areas to apply for a license to a small slice of spectrum over their lands. Holding spectrum licenses makes it possible for Native Nations to set up their own community broadband networks or make it easier to contract established service-providers.



Ms. Blackwater installing broadband internet in Hawai'i

The FCC's and many universities' 2020 responses to COVID-19 in Indian Country is positive and often welcome, but not timely.

Policy changes and support leading up to this point could have prevented the tech crisis that exploded inside of the pandemic. A bit of foresight would have made this time much safer and easier for thousands of tribal citizens. The FCC needs to act on tribal access every day, not just when the world is in a crisis. As a government agency, it is the FCC's duty to uphold the trust responsibility that the United States government owes to Native Nations by making sure tribes and tribal citizens have the tools to thrive. While many tribal citizens have found ways to thrive despite these broken promises, the duty remains, and the FCC must do more.

If there is one lesson that an Indigenous person has to learn early in life, it is not to cry over split milk. Through a positive lens we can see that the pandemic has shined light on the issue of the digital divide in Indigenous communities in a way that nothing else could. That is a win, as it has brought attention and funding to life-giving projects on tribal lands. It has inspired legislation affirming tech sovereignty and self determination among Native Nations.

It has given new meanings to policy recommendations given by organizations such as the National Congress of American Indians and the Internet Society: calls for a tribal broadband fund, meaningful consultation, and spectrum rights for Native Nations. Listening to experts and banding together as advocates will make our voices heard so that tribal citizens may be connected.



Ms. Blackwater is a graduate of the James E. Rogers College of Law

Just as Indigenous students have so much to offer the UArizona, Indigenous peoples have so much to offer the world. The internet needs Indigenous voices: our teachings, our humor, our knowledge, our art, and whatever else we want to share. Throughout my career I look forward to advocating for our voices to be heard; the world needs to hear them.

To learn more about Ms. Blackwater's work and journey visit:
www.blackwatersoul.org