

**Native American Advisory Committee
Quarterly Meeting Minutes
Woodland, California
May 13, 2015**

Welcome and Introductions: Chairman Joseph Myers opened the meeting at 9:05 AM. He welcomed the Native American Advisory Committee (NAAC) members and participants.

Roll: Lonora Graves, Native American Liaison Branch (NALB) took roll call.

Adopt Agenda: The NAAC unanimously adopted the May 2015 meeting agenda.

Approved Minutes: The minutes were approved unanimously.

NAAC Members in Attendance: Joseph Myers, National Indian Justice Center (NIJC); Bo Mazzetti, Rincon Tribe; Sandi Tripp, Karuk Tribe; Virgil Perez, Iipay Nation of Santa Ysabel; Anthony Duncan, Robinson Rancheria; Margaret Park, Agua Caliente Band of Cahuilla Indians; Larry Forst, Jackson Rancheria Band of Miwuks; Dore Bietz, Tuolumne Band of Me-Wuk Indians; Adam Geisler, La Jolla Band of Cahuilla Indians; Steve Rhoades, Pit River Tribe; Vernon Vera, Tule River Indian Reservation.

Caltrans Director's Representatives in Attendance: Malcolm Dougherty, Caltrans Director; Kome Ajise, Caltrans Chief Deputy Director; Katie Benouar, Chief, Division of Transportation Planning; Alyssa Begley, Chief, Office of Sustainable Community Planning; Lonora Graves, Branch Chief, Native American Liaison Branch;

Others in Attendance: Gary Ridley, Oklahoma Secretary of Transportation; Paulette Schuerch, Alaska Tribal Advisor; David Kemp, Alaska DOT; Dixie Myers, NIJC; Shawn Oliver, FHWA; Carol Farris, CalSTA; Brett Gainer, FHWA; Joan Sollenberger, Caltrans Division of Traffic Operations; Vivian Philbin, FHWA; Bob Sparrow, FHWA; Adam Bailey, Hobbs, Straus, Dean, and Walker; Jim Glaze, Sonosky Law Firm; Mike Dumas, FHWA; Laurel Janssen, CTC; Cynthia Gomez, Governor's Tribal Advisor; Giles Giovinazzi, Caltrans Federal Liaison; Terry Supahan, Consultant, Smith River; Jack Lord, FHWA; Jaime Hostler, Caltrans District 1; Kendee Vance, Caltrans District 2; Kang Tang, Caltrans District 4; Lorna Foster, Caltrans District 8; Brandon Fitt, District 9; Maria Rodriguez, Caltrans District 10; Chai Vargas, Caltrans District 11; Gary Arnold, Caltrans District 3; Anmarie Medin, Caltrans; Tina Biorn, Caltrans; Sarah Allred, California High-Speed Rail Authority; Laura Pennebaker, CTC; Andrew Caulum, US DOI; Justine Hearn, California Department of Public Health; Lauren Prehoda, Caltrans HQ Legislative Affairs; Bennie Lee, Caltrans Native American Liaison Branch; Chad Riding, Caltrans Native American Liaison Branch.

Agenda Items:

- 1. Caltrans Update from Malcolm Dougherty.** Malcolm began by recognizing the importance of the NAAC and thanking Gary for coming to the NAAC meeting. Malcolm recognized the Amtrak crash in Philadelphia and reiterated how important safety is to Caltrans. He also mentioned California Transportation Plan (CTP) 2040 and that it was released in March for external review. Comments on the draft will be incorporated into the document. The Interregional Transportation Strategic Plan (ITSP) went out for external comment on May 4 and will receive comments until June 8. The ITSP helps determine funding for the ITIP for interregional projects. The Strategic Highway Safety Plan (SHSP) Implementation Plan is also being revised, and there will be tribal component to the plan that will be reviewed by the NAAC and tribal governments. Joan Sollenberger mentioned that there is a safety contract with SafeTREC to gather tribal safety data. That work is ongoing and should contribute toward tribes' receiving more safety funds.

Environmental Justice/Sustainable Transportation Planning Grants were awarded in April, and the Karuk, Tule River, and Susanville Rancheria Tribes received over \$400,000 in funding. The next cycle of Active Transportation Planning (ATP) grant call for projects is open and a total of \$360 million in funding will be awarded during the cycle. ATP Grants are approved by California Transportation Commission (CTC). The Highway Safety Improvement Program (HSIP) Cycle 7 is open for applications and will close in June.

The California Transportation Planning Conference will take place in December in Los Angeles, and there will be sessions on tribal transportation.

- 2. Carol Farris, CalSTA Update.** Carol informed the NAAC that there will be a tribal consultation session on June 18 from 2:00 PM to 4:00 PM in Lincoln. This meeting is promoted for any tribal leaders who would like to talk about tribal transportation. Leadership from the Departments under CalSTA and tribal liaisons, including the new CHP and Office of Highway Safety liaisons, will be there.
- 3. Gary Ridley, Oklahoma Secretary of Transportation.** Sec. Ridley highlighted the partnership work of the NAAC and how it is a model of tribal-state cooperation. Tribal leaders are the experts for transportation for their communities. The tribes, the States, and federal agencies are all on the same mission which is to improve transportation and people's quality of life. The TTP is a logical expenditure of transportation dollars. There should be proposals for greater transportation funding on the table for tribes and states.

In the reauthorization conversation, a unified voice for tribal governments has not been heard yet and has not been spoken to Congress. If all 566 tribal governments spoke with one voice, people would listen.

Jim Glaze highlighted the Tribal Transportation Unity proposal as one potential solution to having tribes speak with one voice. Malcolm added that Caltrans wrote a congressional letter on reauthorization in which the Tribal Transportation Unity proposal was noted. Sandi Tripp

mentioned that tribes have come together on issues of agreement, such as maintenance and safety. They have a unified case to make to Congress. Bo Mazzetti mentioned that Caltrans or CalSTA should pen a letter of support to Congress in regards to the Tribal Transportation Unity Caucus principles. Malcolm said that he would be glad to include areas where Caltrans and California tribes agree in future Caltrans letters and conversations on reauthorization.

Kome noted that a letter, which showed Caltrans support of the tribal transportation unity principles, was sent in January. Giles Giovinazzi stated that the January letter was based on consensus principles. He said that another letter will be prepared in early June, and Caltrans will gather input from stakeholders and from tribal representatives through a teleconference. Jim Glaze noted that there is a proposal currently on Capitol Hill on tribal transportation that is being discussed.

4. **Vince Mammano, FHWA California Administrator.** Vince shared a letter from FHWA HQ, and this letter noted that the MAP-21 extension expires May 31. No new obligations can be made after May 31, and reimbursement will eventually be halted completely if an extension or a new bill is not passed. The Highway Trust Fund will be empty in July or August. The Obama administration proposed the GROW AMERICA Act, but it has not passed yet. Malcolm explained that if the lapse happens, no new federally funded projects would be advertised by Caltrans until a new bill is passed. Caltrans would be funding work on continuing projects until the money runs out.

Vince explained that tribal transportation often involves both Federal Aid Highways and Federal Lands Highway sections of FHWA even though it is most often associated with Federal Lands. Bob Sparrow from FHWA HQ clarified that there must be authority and limitation for distributing funds. Congressional action is to release the 1/3 of remaining funding available, and there is legislation for a 2- or 7-month extension. It takes 35 days for money to reach Bob's office, and then it takes a couple months to distribute the funds to the tribes. It could be late summer before the funds are available, but that is the end of the fiscal year. November would be the earliest date to release additional money to the tribes. As a result, the two-month extension is the worst possible scenario for the situation, and it would leave tribes with 12 months of work on only 10 months of funds. Another proposal is to extend the bill until the end of the fiscal year, and this would help the situation this year. Next year, though, could see similar issues.

Bob Sparrow also talked about the GROW AMERICA Act, which was proposed by the President as a reauthorization option and would increase transportation funding overall. The High Priority Program would come back under TTP. The High Priority Program helps tribes with limited funding build their most important projects. The Bridge Program would double in funding to deal with the 20% of bridges that are structurally deficient. An increase in planning set-aside is included to help tribes collect better data so tribes can be eligible for programs outside TTP. The Nationally Significant Federal Lands and Tribal Projects Program is to fund a few large projects for which the tribes can receive direct funding. Safety Funding is also proposed to increase so tribes can collaborate better with state and local transportation agencies. Safety summits that forge partnerships can be very beneficial because they allow in-

depth discussions of safety in Indian Country. In addition, there is a proposal to allow dual-language signs in Indian Country.

Andy Caulum, the legal counsel for DOI, also presented on a new process for transferring transportation funds from the state to tribes. This process is based on 23 USC 202(a)(9), which states that a state or local agency can transfer funds to a tribe, and those funds would be credited to the TTP funds for the tribe. He said that 23 USC 202(a)(9) allows state or local agencies to pass through funds directly to a tribe for specific projects. There is still the issue of having to amend the STIP or the TTIP or both to include the projects when necessary. States and tribes will need to cooperate to build projects, and some very successful projects have come from this method. TTP funds can be used on any National Tribal Transportation Facility Inventory (NTTFI) facility, and many such facilities are not on tribal lands but rather give access to them. Jim Glaze stated that limited waivers of sovereign immunity are difficult for tribes because they expose tribes to risk. Cooperation and collaboration using this 202(a)(9) process can lead to solutions where waivers are not necessary. The oversight for funds distributed in this way would go through the federal agency (FHWA or BIA). Andy stated that self-governance agreements help explain how the path forward will look.

There was a comment from Bo Mazzetti about CEQA application to a project. Bob said that it depends upon the source of funds. State funds often trigger CEQA analysis. Jim Glaze said that money can now more easily be funneled to TTP funds of a tribe, which means it is easier for the tribe to use. Bridges are important for tribal communities, and they often require collaboration with the state and local agencies. Sandi Tripp mentioned that first responders are some of the best sources of data because state law enforcement does not come to accidents. The first responders will take down sophisticated reports.

- 5. Tribal Transportation Program Coordinating Committee.** Sandi Tripp explained the history of the TTPCC, the committee providing policy advice to BIA and FHWA on issues related to the TTP. Jacque Hostler-Carmensin is the Pacific Region representative and the Vice President, and Sandi is the alternate. Jacque and Sandi can bring forward questions about funds and fund distribution, so be sure to share your concerns with them. Sandi reported there is a project ongoing to develop GIS databases of tribal roads. The Yurok Tribe is working on this. There is also a proposal to develop a tribal transportation safety steering committee. There is a lot of institutional knowledge on the TTPCC. There is support in the TTPCC for dual language signage, particularly with the tribal language on top. The next TTPCC meeting will be at the Ho-Chunk Nation in Wisconsin.
- 6. Tribal Advisor to the Governor.** Cynthia Gomez thanked the tribal representatives for coming to the meeting, and noted that this committee is the embodiment of Governor's Executive Order B-10-11. Almost every state agency has a policy on working with tribes, and Caltrans was one of the first. Cynthia reported that a broadband network is being built across the country, and the FirstNet program will provide first responder services throughout the state. Consultation with tribal governments is a next step.

The Drought Task Force is continuing. New solutions are being sought, and some tribes are in critical shortage of water. The new water law was drafted, and Bo noted that it was the first time the state has recognized the existence of tribal water rights.

Cynthia Gomez mentioned that AB-52 was passed last fall, and this law requires lead agencies to look at impacts to Native American Cultural Resources as an impact under CEQA. Tribes, though, must approach the lead agency and request consultation. Aboriginal territory areas are being documented, but with 164 tribes, it is a complicated process. Many tribal land areas will overlap, and consultation should take place with all of them as requested.

Dore Bietz noted that first responders and tribes should have a strong relationship. County Office of Emergency Services (OES) and tribes should work together so tribes can have access to tribal lands in an emergency. There will be increased broadband and communications coverage of California communities, particularly rural and tribal communities. Adam Geisler said that he worked on the “The Red Guide to Recovery” with a Native American edition (website: <http://www.theredguidetorecovery.com/buy-the-red-guide-native-american-edition/>). This book gives information on what to do when disaster strikes. Adam Geisler noted that TERO was not included in the broadband bill, and that could become an issue in the near future. Cynthia noted that the money for FirstNet and broadband will not be enough for California, but it will help.

Finally, Cynthia noted that the directory of tribal governments is at the printer’s office. It will be distributed to tribal governments and state agencies. Also, almost all state agencies now have a tribal liaison.

Terry Supahan asked about expansion of broadband in Caltrans right-of-way. Malcolm said that this is an important issue but more close cooperation will need to occur so maintenance can best deal with it.

7. **Laurel Janssen, CTC Liaison.** Laurel Janssen, a deputy at the CTC, who works on transportation programming, introduced herself to the NAAC. She would like to attend the NAAC meetings in the future and highlight the work that CTC is doing with tribes. Adam Geisler acknowledged the good consultation work that CTC has recently done with tribes.
8. **Notice of Proposed Rulemaking Update.** Lauren Prehoda gave information about the notice of proposed rulemaking for the TTP. NAAC members gave valuable input on the Caltrans comment letter, and a conference call was held with NAAC members. Input was considered and Caltrans sent a comment letter on this NPRM. Caltrans is also preparing a comment letter on the bridge and pavement NPRM. Lauren will forward NAAC members the letter when it is finalized.

The next comment letter is for asset management, and comments are due May 26. That letter will be sent out as soon as it is ready. The next sets of NPRMs are on CMAQ and freight movement. The safety rules will come out this fall. Joe Myers asked whether there is a place where performance measures are explained. Lauren stated that Caltrans’ MAP-21 page has

information on performance measures. Lonora said that those links could be bundled together for people's use.

- 9. High Speed Rail Authority (HSR) Update.** Sarah Allred is the tribal liaison for HSR. Sarah gave an update on high speed rail and its importance for the future of California. The high speed rail project also has funds that will go toward local projects to improve intermodal travel. A video was shown on the improvements in Fresno's infrastructure due to HSR (<https://www.youtube.com/watch?v=usu1w3V78uw>). The project is being constructed in sections. The contractors are building the central portion now: the Fresno-area section is being constructed now, and environmental review is taking place on the other sections. The Records of Decision are to be done by 2017. The project is scheduled to open in 2029 and will include walking paths.

Sandi Tripp asked why Fresno was chosen as a first segment. Sarah responded that the Central Valley is the backbone of the system, so it was scheduled first. The high speed rail will focus on the San Francisco to Los Angeles route and only expand to Sacramento later.

- 10. Road Charge Working Group.** Laura Pennebaker from CTC presented the road charge working group. She asked that the NAAC nominate a member for the committee so there will be a tribal voice in the discussion. This research project was authorized by the state legislature to explore an alternative to the gas tax. There is a 15-member Technical Advisory Committee (TAC) to develop the pilot project. The Road Charge Working Group is for stakeholder outreach. The Working Group consists of 20 members from throughout the state and from several different agencies. The working group will meet via teleconference. Adam Geisler was unanimously nominated to be the NAAC representative. The TAC is now meeting and has until December 2015 to come up with a pilot, until January 2017 to conduct the pilot, and 2018 for the evaluation of the pilot.

Bo Mazzetti stated that many tribal communities are in rural locations, and that they would often be hit hardest by a road user charge due to longer trips to work or recreation. Adam and Dore stated that many tribal members' cars are registered on tribal lands, and they pay the tribal registration fee. This project raises the question of how the state would distinguish between trips on- and off-tribal lands. Virgil Perez stated that there should be a maximum amount to the fee because many rural tribal communities drive long distances on a regular basis.

- 11. Transportation Guide for Native Americans.** Chad Riding presented the "About Native American Liaison Branch" document and said that it is now available on the NALB website. He will send the link (http://dot.ca.gov/hq/tpp/offices/ocp/nalb/index_files/nalb_intro.pdf). Chad thanked everyone who contributed to the document, which has lots of pictures and explanations. The Transportation Guide for Native Americans is being updated. The last guide came out in 2003, and it is time to update it for any changes that have occurred since then. The guide is for all people who work with tribal transportation, including non-tribal people working in transportation, such as at Caltrans or a local agency. Chad solicited participation from individuals on the NAAC to help. Lonora stated that tribal members could help identify gaps in the document.

12. Safe Routes to School in Tribal Communities. Justine Hearn from California Department of Public Health presented information about Safe Routes to School (SR2S) that is now funded through ATP. Kelly Myers helped Justine develop a guide on SR2S in California tribal communities. The guide helps tribes access funds for active transportation and prepare successful programs, such as data collection and project implementation. Justine would like input from tribal transportation professionals to learn more about how the document can be improved and on how the program can better benefit tribal communities. She also mentioned that the La Jolla Tribe's grant application was so successful that it should serve as an example to all applicants for ATP grants. Kendee mentioned that the coordinators in each district can provide important insight into the process. Justine was referred to the NAAC as a place to get input about SR2S and schools. Dore noted that local and other state grants can also fund SR2S-like projects. Joe Myers mentioned that the HSIP Call for Projects is out.

Meeting Adjourned at 2:10 PM.