

**Native American Advisory Committee
Quarterly Meeting Minutes
Woodland, California
February 18, 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 Agenda was adopted for the February 2015 meeting.

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; Anthony Duncan, Robinson Rancheria; Margaret Park, Agua Caliente Band of Cahuilla Indians; Paul Irwin, North Fork Rancheria of Mono; Andrew Ramey, Ione Band of Miwok Indians; Dennis Hendricks, Tuolumne Band of Me-Wuk Indians; Jacque Hostler-Carmesin, Trinidad Rancheria; Lorenda Sanchez, California Indian Manpower Consortium; Adam Geisler, La Jolla Band of Cahuilla Indians; Joel Bravo, Smith River Rancheria; Steve Rhoades, Pit River Tribe.

Caltrans Director's Representatives in Attendance: Bill Figge, Deputy Director, Planning and Modal Programs; Alyssa Begley, Chief, Office of Sustainable System Planning; Lonora Graves, Branch Chief, Native American Liaison Branch;

Others in Attendance: Raquelle Myers, WTTAP/NIJC; Jim Hatch, BIA Pacific Region Division of Transportation; Isaac Kinney, Yurok Tribe; Carol Farris, CalSTA; Joan Sollenberger, Caltrans Division of Traffic Operations; Ursula Stuter, Caltrans Division of Traffic Operations; Lillian Hostler; Heather Hostler, Assistant to the Tribal Advisor; Terry Supahan, Consultant, Smith River; David Ragland, SafeTREC; Michael Hostler, Hoopa Valley; David Ragland, Safe-TREC; Jack Lord, FHWA; Jaime Hostler, Caltrans District 1; Kendee Vance, Caltrans District 2; Blesilda Gebreyesus, Caltrans District 4; Lorna Foster, Caltrans District 8; Maria Rodriguez, Caltrans District 10; Nieves Castro, Caltrans District 3; Anmarie Medin, Caltrans; Teresa McWilliam, Caltrans Division of Local Assistance; John Sharp, California High-Speed Rail Authority; Scott Sauer, Caltrans; Chris Ratekin, Caltrans; 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 Bill Figge.** Bill Figge presented the Caltrans update. In Gov. Brown's State of the State Address, the \$59 billion in maintenance backlog was discussed. The "Fix it First" strategy is promoted as the best use of taxpayer dollars. MAP-21 will expire at the end of May, and Congress is looking for a longer-term solution to transportation issues. Giles Giovanazzi is the new federal liaison and should be at a future NAAC meeting.

The California Freight Mobility Plan has been approved and is available online. It is one of the first completed in the country as part of MAP-21 requirements, and it is the first modal plan completed as part of the California Transportation Plan update. Air Resources Board (ARB) will soon produce a sustainable freight plan, and Caltrans will work with ARB on this.

A California Transportation Planning Conference (CTPC) will take place in fall in Southern California. It will last three days, and the plans are now being finalized. Lonora stated that NALB is having an input into the CTPC. Adam recommended a session on consultation with MPOs. Bo Mazzetti remarked that tribal transportation is often crammed into training sessions and not given the respect it deserves. More information will be available by the next NAAC meeting.

The Highway Safety Improvement Program (HSIP) is being prepared. A webinar will take place on Feb 26 that contains more information. The State Smart Transportation Initiative (SSTI) is available, and Caltrans Improvement Project is ongoing. The Caltrans Strategic Plan will tie these and others together to bring a new direction for Caltrans management.

Adam Geisler asked a question on the HSIP funding source. Joan stated that HSIP is a federal stand-alone program that may include a state match. HSIP projects must be consistent with SHSP. Joe Myers stated that tribes should have direct input into the planning process. Adam also had a question on the SSTI report. Carol Farris noted that the SSTI report was only on Caltrans management. Adam asked how the state could create an eighth department in CalSTA dealing just with tribal transportation.

- 2. Carol Farris, CalSTA Update.** Carol ~~first~~ informed the NAAC that the October 2014 consultation session with Secretary Kelly was canceled. There may be a consultation session in April. Andre Boutros of CTC retired in February, and Will Kempton took his place as ~~CTC head~~ GLM CTC's Executive Director. There are new Tribal Liaisons at DMV and CHP. CalSTA is looking at new ways to make tribal funding more efficient. Joe Myers commended Malcolm Dougherty and Secretary Kelly for their participation in NAAC meetings and being sensitive to tribal needs
- 3. Tribal Advisor to the Governor.** Heather Hostler attended in Cynthia Gomez's place, and she stated that tribal outreach is ongoing. There are bimonthly drought consultation webinars, which will become monthly webinars in March. ~~These webinars, that~~ spread the latest in drought information. Bo Mazzetti stated that state law now better recognizes tribal rights and that. In addition, all water extraction facilities must be registered, including how much is

pumped. [GLM2] Water must be quantified, too. Bo noted that ~~the~~ NAHC is charged with monitoring this, but there is no funding for this task.

Heather said that ~~W~~work is progressing with OPR to develop AB 52 guidelines. Native American Heritage Commission (NAHC) is working on getting input from California tribes and developing consultation guidelines for AB 52. All but two consultation policies are now in place for State agencies. These policies are available on the Tribal Advisor's website.

4. **Jack Lord, FHWA Update.** A notice was received that the Notice of Proposed Rule Making (NPRM) for Performance Management is extended until May 8. There is no new information on reauthorization. FHWA recently went to San Diego for the tribal consultation on the MPO's regional plan. MPOs should continue work with tribes on these matters, and FHWA encourages consultation early in the plan update process. FHWA enforces the requirement that MPOs must consult with tribes. Kendee Vance asked about OWPs and RTPAs. Jack responded that OWPs are reviewed by Caltrans and that RTPAs are state entities, so Caltrans would enforce the tribal consultation requirement for RTPAs.
5. **Kelly Myers, Western TTAP and TRB Update.** Kelly shared that there are ~~7~~seven TTAPs across the country, and WTTAP is the one for California and Nevada. WTTAP recently delivered some planning workshops. Justine Hern from California Department of Public Health (CDPH) is developing a Safe Routes to School toolkit for tribal communities. A final draft should be available in mid-April. The Safety Circuit Rider Program is getting off the ground. This can be prioritized by region. There are several calendared items, so the WTTAP website should be consulted.

Kelly attended the Transportation Research Board (TRB) conference in January. It is a research conference. Kelly Myers is the chair of the Standing Committee on Native American Transportation Issues~~research panel at TRB on tribal issues.~~ More information about the Standing Committee, including meeting materials, is available online at <https://sites.google.com/site/trbcommitteeabe80/> ~~Minutes from tribal panels are available online~~[GLM3]. There was also a meeting with FHWA during the conference, and FHWA asked WTTAP to help with ~~the~~ [GLM4] revision of the FHWA right-of-way guidebook. The revision work will start in April.

Bo Mazzetti stated that ROW is important because tribes can relinquish ROW but still keep authority. It is important that tribes monitor what occurs with ROW because others may try to do things to ROW that are not desirable. More data is becoming available, which empowers tribes to provide better transportation services. There is a national effort, a pilot project, to gather tribal transportation GIS data, and data security is a major effort in this. Several tribes have GIS programs, and BIA has one too. There are several contacts in tribal communities who can help in this effort. Counties may have this data, and tribes can work off county data. The best source for tribal data is asking a tribe for it. Finally, sacred sites should not be included in a database that others will use.

6. **BIA Update, Jim Hatch.** Jim gave the BIA update for Steve Wilkie. BIA is working on reclamation projects and maintenance projects. Rain is making project construction more difficult in some areas.
7. **Tribal Transportation Program Coordinating Committee (TTP CC), Jacque Hostler-Carmensin.** Sandi Tripp will be an alternate representative for the the-California slot on thealternate for TTP CC. ~~[GLM5]The next meeting will be in April. Getting funding for meetings is difficult, and t~~There is only funding for 2 TTP CC meetings this year. The next meeting will be in April. Getting funding for meetings is difficult. The TTP NPRM consultation sessions were held in January and February. Coordination is necessary for the NPRMs, and each tribe should review them. Kelly will work with Caltrans to give a tribal perspective. Lonora will help with coordination. There are several legacy issues with the TTP, such as county roads and road maintenance. Quality assurance and quality control issues are continuing.

Sandi Tripp updated the NAAC on ~~the-recent~~ Tribal Transportation Unity Coalition (TTUC) meeting activity in Washington, D.C. Tribes from across the country will meet in late February. The TTUC started in 2013, and several points of agreement were made. Many issues exist where tribes see eye-to-eye, such as reducing crashes in Indian Country. The obligation limitation is also a major issue. ~~T~~this is when Congress takes away money from the amount they promised tribes as a security in case more money is needed for a project, but the need never arises. It is like a disappearing contingency. Tribes do not want to be in this situation but rather want a separate exemption. Tribes would also like all self-governance programs under one master agreement. There is also a desire for a 3% set aside for certain tribal transportation programs. Next week, tribes from across the country will meet in Washington, D.C., and TTUC is setting up meetings with committees and advocates representatives to advocate these issues.

Adam Geisler asked that a new letter be drafted to be sent to California's Congressional delegation on transportation reauthorization with regards to tribes.

Jacque commended Sandi for becoming the chairperson of the Humboldt County Association of Governments (HCAOG) technical advisory committee.

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8. **Limited Waiver of Sovereign Immunity, Bill Figge.** Bill reported on work that has been done in Caltrans to address limited waivers of sovereign immunity when Caltrans enters into contract with a tribe. CT pursues sovereign immunity waivers because agreements need to be enforceable. However, we may have the opportunity to limit the length of time and to limit the scope of these waivers so that they cause fewer issues for tribes. Caltrans is pursuing a limited waiver of sovereign immunity to ensure agreements are enforceable. ~~The issues included in the~~ individual waiver of immunity would depend on the type of project or grant.

Bo Mazzetti stated that tribes have done limited waivers of sovereign immunity before. The agreement must grant a very narrow limited waiver so the court does not interpret that as a blanket waiver. At this stage, Caltrans is working on minimizing the scope of any waivers requested for a tribe to receive state funds.

There are a few other ways that funds could pass from Caltrans to tribes, such as giving the BIA or FHWA the funds so that these federal agencies can ~~give the funds pass through~~ to the tribes using existing TTP agreements. ~~From a management perspective, Caltrans is looking at who would review the waivers.~~ [GLM6]—Adam Geisler stated that using a federal agency to grant the funds to the tribe is advantageous. This method is found in 23 USC 132 and in 23 USC 202(a)(9) and is very common for other programs.

Michael Hostler explained the situation with Hoopa and the limited waiver of sovereign immunity. The contract and language must be clear. Jacque Hostler-Carmensin stated that it is important for tribes to be able to bring these issues to the director and to work with state agencies in a productive way.

- 9. Strategic Highway Safety Plan (SHSP).** Joan Sollenberger and Ursula Stuter presented the SHSP. ~~Bo Mazzetti recognized Joan's hard work for the NAAC over almost 20 years.~~ The SHSP deals with all public roads, not just highways. There was an effort to gain more input from tribes in SHSP development. The SHSP is not just about roadways but also driver behaviors and emergency services. The public draft of the policy portion is out for review and comment. There was a separate webinar on tribes and the SHSP, and there were tribal breakout sessions at the summits. The SHSP process continues in implementation, and the dialog with tribes will also continue.

Ursula stated that SHSP consultation letters would go out with CTP 2040 letters. Crash data is an important component of this SHSP process. Knowing about crashes as they occur is important. A partnership with SafeTREC will help improve tribal crash data. There was a survey in September that can still be accessed online to gauge how familiar tribes are with the SHSP. Caltrans will have 3 years for plan implementation.

Adam Geisler noted that data is often lacking for tribal communities, which makes them less competitive. Joan stated that more work needs to be done to get better crash data. Sandi Tripp noted that crash data can be obtained from first responders' data sheets and then be mapped. The problem is that those data sheets may not be accepted. Jacque said that resources could be diverted to getting crash data. Joan replied that this may be possible, but funding would be required from other areas. Kelly mentioned that "anecdotal" data is very accurate and ~~beneficial~~ **beneficial**. Joan also stated that the steering committee would like to understand tribal safety issues better. ~~Bo Mazzetti recognized Joan's hard work for the NAAC over almost 20 years.~~

- 10. NPRM and the Caltrans Comment Letter Coordination, Laura Prehoda.** The comments on the TTP NPRM are due March 20. The Bridges and Pavement NPRM is pushed back to May 8. There have been tribal conference calls to engage with Native Americans on providing comments for this NPRM. Caltrans has some concerns with the Bridges and Pavement NPRM about culverts being underestimated in length. Much of the pavement in California is not owned by Caltrans, so coordination with tribes is important.

Adam Geisler emphasized that these detailed transportation issues are very important. ~~Adam He~~ also requested that the NAAC receive a draft copy of the letters before they go out. Lonora asked if ~~there were people who anyone~~ would like to comment on the NPRMs during the meeting. Jacque stated that the 15 mile cut-off in the TTP NPRM is a major issue for Trinidad Rancheria. Kelly informed NAAC that comment letters should be varied, or the FHWA will count it as one comment. Kendee stressed that it is important to inform people why the NPRMs are so important. Lauren asked that people also include in the comment letters what they like in addition to what they do not like. Bill Figge said that there will be some dialog between Caltrans and tribes to ~~add their input to the letter~~ develop a comment letter for the TTP NPRM.

11. Caltrans Perspective on Tribal Consultation under AB 52. Anmarie Medin gave a presentation on ~~the new~~ AB 52 and how it will impact tribal consultation. ~~Consultation is often complicated, but hopefully AB 52 will add some clarity.~~ AB 52 establishes a process similar to Section 106 of the Historic Preservation Act. It requires lead agencies to consult with Native American tribes on impacts to ~~Tribal cultural~~ Cultural resources ~~Resources (TCR), and makes a TCR a separate resource to be analyzed in the CEQA process.~~ It covers traditional cultural properties of tribes, including cultural landscapes. The lead agency for a project will have to work with the tribe to see what is important to a tribe. Consultation will determine the significance of a site and ~~what can be done to preserve it~~ how impacts to that site can be avoided or mitigated. It is incumbent upon the tribe to request consultation from a lead agency under AB 52. Caltrans will already ~~has~~ have consultation processes in place that involve tribes in most cases. AB 52 has concrete timelines for consultation. Heather Hostler recommended that lead agencies be specific on a project's location because some cities and counties cover more than one tribe's heritage area.

12. Active Transportation Program (ATP), Teresa McWilliam. The ATP funding is a combination of several federal programs in the Transportation Alternatives Program (TAP) and ~~combined with~~ the state Safe Routes to Schools and Bicycle Transportation Account funds. There were over 771 applications in Cycle 1, and 265 projects were selected. There were two direct tribal applications that were funded, one from La Jolla Tribe and the other from Quechan Tribe. The North Fork Tribe submitted in partnership with Madera County. There will be \$129.5 million in annual funding for Cycle 2 of the ATP. Funding is split between rural, urban, and state portions. Several different types of groups can apply for ATP grants, such as cities, counties, tribes, school districts, public land agencies, and some non-profits. The CTC wrote the initial guidelines, and Caltrans administers the program. The applications for Cycle 2 begin March 26th. The applications ~~for Cycle 2 should~~ will need to be postmarked by June 1. The decision on funding will come by the fall.

Adam Geisler mentioned that there should be consultation on ATP guidelines to get tribal input. This consultation would have to occur with CTC. Paul Irwin noted that it is hard to highlight tribes in demographic data. Teresa McWilliam noted that work is ongoing to best highlight disadvantaged communities. Local assistance is also trying to make sure that tribes receive information about the ATP guidelines and any updates.

13. California Transportation Plan (CTP) 2040, Chris Ratekin. The CTP 2040 is the State of California's plan, ~~not Caltrans' plan for transportation~~. There are several state laws that mandate the plan and certain ~~aspects components~~ of it, ~~and t~~The plan helps implement AB 32 and other climate change legislation. All modal plans are required to be consistent with CTP 2040. There is a strong push to ~~reducing-reduce~~ greenhouse gas emissions and total vehicle miles traveled.

The CTP 2040 will go out for public review on March 2, and public workshops will occur at that time. Information can be found at the ~~CTP 2040 web portal~~^[GLM7]: <http://www.dot.ca.gov/hq/tpp/californiatransportationplan2040/index.shtml>. There will also be a webinar for tribal transportation officials on March 11 to explain how the CTP and ITSP impact tribal communities. Tribal consultation will take place in March and April with the district director upon a tribe's request.

14. Interregional Transportation Strategic Plan (ITSP), Scott Sauer. The ITSP is one of the modal plans under CTP 2040. It looks at interregional transportation across modes, particularly transit, highway, and passenger rail modes. Outreach occurred last fall across the state. The ITSP is the plan that guides the use of the Interregional Transportation Improvement Program (ITIP) funds of \$300 million annually, of which 60% must be used for non-urbanized areas and a portion for passenger rail. The key focus of the plan is looking at interregional deficiencies. The ITSP will go out to public ~~for~~ comment in March for 30 days of review. The ITSP will be presented to the CTC in May for a final due date in June. ITSP staff would like to receive as much input as possible, and they can come to tribes for a discussion of the plan.

There was a question about the freight plan, but Scott responded that the ITSP is not a freight plan, which is separate. Adam Geisler asked why there was no consultation about SR 76 in San Diego County, which is a major economic corridor in the county and for several tribes. Scott stated that the major corridors are the focus of the plan, and these are non-commute routes. A questionnaire will be included as part of ITSP development to gain better feedback.

15. SafeTREC Tribal Data Project, David Ragland. David Ragland from UC Berkeley discussed the SafeTREC data research project for tribal lands. Much of the safety data is not submitted to SWITRS, which is the crash database for California, primarily administered by CHP. A draft questionnaire has been developed, and David asked for feedback on the questions, which will be used on a test area of ten tribes before it is rolled out to all California tribes. Major sources of data will include police reports and emergency services reports. About ten years of SWITRS data was mapped online. Data is hard to come by, and much of it is not geocoded. The tribal lands and in some cases IRR program facilities could be highlighted, and data factors can be analyzed.

Bo Mazzetti said that CHP counts a reservation as private property on its forms. The form should be changed to include tribal lands. David confirmed this and said that there are also many crashes that are not reported at all. An official crash record needs to be made and entered into the system correctly. Tribal first responders can help fill in some data gaps, but these data gaps should be reduced. The restructuring to form CalSTA should make this effort

easier because CHP is under the same agency as Caltrans. Joe Myers recommended that a uniform database can help solve these problems.

- 16. Transportation Guide for Native Americans Steering Committee and “About NALB” Document, Chad Riding.** The “About NALB” document is available for comment and review. Bo Mazzetti noted that all the pictures are from Northern California. Chad noted that NALB would welcome pictures, especially those from Southern and Central California tribes, and will add them to the document. The Transportation Guide for Native Americans is being updated, and NALB would appreciate input from tribal communities in developing the Guide. An email was sent out to solicit steering committee members.

- 17. High Speed Rail Authority, John Sharp.** John reported that the High Speed Rail project is proceeding as planned. The train will be 200 miles/hour and make the San Francisco-LA trip in 2 hours. ~~The distance San Francisco-LA is perfect for high speed rail and will alleviate congestion at airports.~~ Environmental clearance has been secured on two sections, and environmental clearance is proceeding on several others. The contract for the first section of the high speed rail is \$1,234,567,890. Utility relocation, earthwork, and other construction is occurring right now. Disadvantaged businesses are benefiting from the project because it helps the businesses open into new markets and gain side projects.

Meeting Adjourned at 2:20 PM.