

**Native American Advisory Committee
Quarterly Meeting Minutes
Woodland, California
February 23, 2011**

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

Roll: Kimberly Johnston-Dodds, Native American Liaison Branch (NALB) took roll call.

Adopt Agenda: The Agenda was then adopted for the February 2011 meeting.

Approved Minutes: The approval of the October 2010 minutes was postponed and will take place at the next NAAC meeting.

Members in Attendance: Sandi Tripp, Adam Geisler, Gaylen Lee, William Micklin, Dennis Hendricks, Chris Howard, Joel Bravo, Donna Miranda Begay, Jacque Hostler, Bo Mazzetti, Joseph Myers, Stacy Dixon, Lorenda Sanchez, Carlos Hernandez

Director's Representatives in Attendance: Martin Tuttle, Deputy Director, Sharon Scherzinger, Chief, Division of Transportation Planning; Alyssa Begley, Chief, Office of Community Planning; Lonora Graves, Branch Chief, Native American Liaison Branch.

Others in Attendance: John D. Green, Elk Valley Rancheria; Shirley Laos Trinidad Rancheria; Kelly Myers, National Indian Justice Center; Raymond E. Patton, California Indian Basketweavers, Association; Curtis Grinnell, Bureau of Indian Affairs, Pacific Region; Ryan Morris, Bureau of Indian Affairs, Pacific Region; Kendee Vance, CT District 2; Nieves Castro, CT District 3; Richard Olson, CT District 3; Eric Fredericks, CT District 3; Kathleen McClafin, CT District 10; Gus Silva, CT District 11; Joshua Pulverman, CT Community Planning; Kimberly Johnston-Dodds, CT NALB; Tony Snow, CT NALB.

Old Business:

1. **Welcome and Introductions.** Chairman Myers opened the meeting with a prayer, and then welcomed the NAAC members and meeting attendees who introduced themselves.
2. **NAACC Background.** A background of the NAAC was provided by Sharon Scherzinger who discussed the 15-year history of the committee. The new representatives from throughout the state and the continuing NAAC members were recognized. Bo Mazzetti celebrated the accomplishments of the group including the signage of Reservations/Rancherias found on the freeways. There was some discussion of the creation of the Native American Liaison Branch at the same time as

the NAAC, and some discussion of the bylaws which will be revisited at the next meeting.

- 3. Indian Reservation Roads.** Jacque Hostler reviewed the IRR Program Coordinating Committee (IRRCC) letter regarding unresolved issues (See Attachment 1). The Question 10 issue is still pending. Though not resolved, the IRRCC has looked at all of the various situations.

Another activity the IRRCC is undertaking is an attempt to formalize the way federal and regional cost-to-construct (CTC) numbers are computed because BIA handles these calculations differently in each region. The current proposal is to average information for all three bid tabs throughout each region (state, federal, tribal). The IRRCC is close to completing this process, but Jacque pointed out that the conversations are at a work group level within IRRCC. NAAC members voiced concern regarding this method to determine the CTC formula for California tribes because construction costs in California are significantly higher than in other states/regions. California tribes will be hurt in the long run if this methodology is implemented in California. Sharon Scherzinger offered that Caltrans can assist with the review of construction costs information. Curtis Grinnell, BIA, confirmed that he is working with Caltrans to gather actual cost information by geographical and local areas within the state.

The next IRRCC meeting will take place during the week of April 11, 2011 at Trinidad Rancheria. The work group meetings are open to the public.

Donna Miranda-Begay asked: what is the process to include a BIA road that runs through an allotment on the IRR inventory? Curtis Grinnell confirmed that the request has to be made by a federally-recognized tribe, and suggested that allottees with such a road work with the nearest federally-recognized tribe to add the roads/allotments to its long range transportation plan. Other NAAC members gave examples of where this has occurred within their areas. The question generated a broader discussion between NAAC members and BIA representatives who emphasized the importance that California tribes have accurate, up-to-date long range tribal transportation plans.

Jacque reviewed a 2012 budget proposal power point provided to her by Bob Sparrow, FHWA. The presentation reviewed the President's proposed budget, reauthorization proposals, and the implications to tribal transportation funding. The budget proposal included consolidation of federal allocation programs (from 55 to 5) and discussion related to the refinement of the tribal transportation funding formula (See Attachment 2). NAAC members expressed some concern related to how grandfathered roads would be incorporated into the funding formula, and asked questions about whether updates to the reservation road inventory would affect grandfathered roads. There was also concern expressed about the requirement that 50% of the funding be generated by facilities owned by BIA, the Tribes, and the roads that were grandfathered. Jacque Hostler reiterated that this proposal is brand

new (as of 2/16/11); the grandfather cut-off date will be critical for California tribes but at the current time no one knows what will be the specific date, or if/when the 50% threshold will be implemented.

Additional discussion occurred regarding Sec. 202- Tribal Transportation and Section 203 Federal Lands Program proposed budgets. Discussion also followed regarding how tribes will be able to access funding related to a new Title 23 program, Livable Communities (\$3.4 billion formula to states).

- 4. Bureau of Indian Affairs Update.** Curtis Grinnell expressed an interest in developing a statewide transportation plan for California tribes because a number of TIPs in California are missing or not in line with the long range transportation plans. A statewide assessment/plan for asset management would be important to have because the TIPs are the go-to tools for the BIA high priority projects (HPP). Curtis noted that by being involved in preparing all the PS&E packages for ARRA funds for the tribes, it became apparent that it is critical to be able to quickly determine long-term vs. immediate needs/projects should pots of funding become available for Tribes especially with short application deadlines, etc. Ideally, there should be at least 100 projects on the BIA TIP.

Ryan provided a power point presentation about long-range transportation plans (See Attachment 3). *Transportation plans show three main things:* 1) The tribe's overall goals and values; 2) Roads added to the IRR Inventory; and 3) Construction projects planned/programmed. BIA stated that a Quality Assurance Review Team is in place and will be not only looking closely at tribal transportation plans, but also examining the routes included in the inventories, level of service, and TIPs.

Sandi Tripp pointed out that many California tribes do not have the internal capacity to develop long range-transportation plans, or staff with the knowledge required to assemble a plan or a PS&E package. Tribes know their *project* needs but do not know the *process*. She stated that training, assistance or background provided by BIA would be welcome. Jacque Hostler mentioned that the 658 contract process is another challenge for California tribes.

TTAP expressed a willingness to help with any education that is needed in this area. Curtis also mentioned that RIFDS training is taking place in Central California, and TTAP offered assistance related to this area as well, confirming that training is needed to provide a foundational understanding of tribal road funding programs, information on how the IRR is significant to the funding process, and detailed information related to planning and programming actual projects.

Maintenance was raised as a major issue because funding is not adequate. Bo Mazzetti stated that the number one problem for paved roads is resealing. There is no way to save roads if this isn't done on a regular basis but funding for this kind of work is not included in IRR programs.

Ryan Morris, BIA, shared a powerpoint that highlighted the work done pursuant to the instruction of Amy Deitschke, the new Regional director, and under the direction of Tom Dang, the acting roads engineer, to manage the backlog in IRR Inventory submittals. A huge effort was made by BIA, the Tribes, Caltrans, and the local agencies to ensure that all the components were present and met the requirements necessary for these routes to be included in the inventory. This effort was highly successful and a number of routes are moving forward. Ryan also talked briefly about the need for IRR TIPs to be financially constrained for the first year. A question was asked about whether a project can be phased. The response was that the phasing would need to be built into the TIP.

5. **Legislative Report.** Kimberly Johnston-Dodds provided a brief update on California legislative activity. NAAC members discussed AB 968 introduced by Assemblymember Chesbro related to a state agencies consultation policy and Native American Advisor to the Governor on Tribal Issues. Will Micklin provided background information surrounding the bill, and Bo Mazzetti provided additional information related to tribal statewide efforts underway to develop an Office of Indian Affairs.
6. **Encroachment Workgroup.** Lonora Graves gave a brief status update on the development of the Encroachment Factsheet/Summary by NALB.
7. **Tribal Technical Assistance Program.** Kelly Myers supplied an update on TTAP activities, training conducted since the last NAAC meeting, and various training requests that have been received from tribes. TTAP is building its distance learning capacity and Kelly noted that there will be a Transportation 101 training webcast from Santa Rosa on April 13-15. Kelly also provided an update on recent activities and research initiatives being pursued by the TRB Native American Issues Committee.
8. **Tribal Safety Summit.** Kelly Myers presented information regarding the California Tribal Safety Summit which will be held at Rincon from May 23-24, 2011. The purpose of the tribal safety summit is to convene a meeting of Tribes, Caltrans, counties, metropolitan planning organizations (MPOs), law enforcement, and federal agencies to discuss safety issues in California Indian Country. The summit is sponsored by FHWA, but the content is being tailored to California-specific interests and concerns. Based upon the discussions that occur at the summit, priorities will be identified and a timeline to address the priorities, issues and concerns will be developed.

New Business:

9. **Caltrans Update.** Sharon Scherzinger discussed the Caltrans Statewide Needs Assessment Survey currently underway. The purpose of the needs assessment survey is to capture accurate information and cost estimates related to 1) system expansion; 2) construction; and 3) maintenance/preservation for the next 10 years. This

information will be provided in a report to the California Transportation Commission. Caltrans appreciates the efforts of the Tribes who have currently participated in the survey and hopes to receive additional information from California Tribes regarding their pending and future transportation projects as it is well known that California tribes receive minimal funding through the various federal programs. In general, estimates suggest that California alone would need \$600 billion to address its current statewide system needs. An important Caltrans goal is to include as much information as possible regarding tribal transportation projects as a stand-alone component of the report to the Commission. A draft version of the report should be completed in April.

Martin Tuttle, Caltrans Deputy Director, noted that it is time to build from current positive government-to-government relations and update Caltrans DP-19 to develop a more formal consultation policy. NAAC members stated they would support such efforts, and would work with Caltrans to move this forward.

10. California Interregional Blueprint Interim Report Task Force. Martin Tuttle gave a brief overview of the California Interregional Blueprint (CIB) initiatives, how they are building on regional transportation plans and land use scenarios. He further described GIS and Caltrans Earth applications that are being developed to be used for various planning scenarios and functions. Caltrans will be able to give demonstrations to Tribes. A CIB Interim Report Task Force has been created that will convene six meetings. Sandi Tripp and Chris Howard will be the NAAC representatives on the Task Force.

11. Pedestrian Issues in the State of California. Eric Fredericks, Caltrans District 3 outlined information regarding current pedestrian issues that Caltrans is involved in 1) ADA lawsuit update; 2) Highway Design Manual update that includes pedestrian components to be released 3/14/11 for comments; and 3) new policy through Complete Streets Directive 73. NAAC members and Caltrans discussed a new D-1 low-cost pedestrian counter video device recently developed in District 1 which has received very positive feedback from the communities using it.

12. 2011/2012 Environmental Justice Grant Applications. Josh Pulverman, Office of Community Planning explained the 2011/12 grant application process, and provided a power point presentation and handouts to attendees.

13. NALB Website Update. Tony Snow, NALB, described new features on the NALB website, and asked for any feedback, along with event and meeting information that can be added to the master calendar.

14. Program Directive 99-03. Will Micklin, NAAC Member requested that Caltrans Program Directive 99-03 regarding signing for Indian Reservations and Rancherias be reviewed for possible revision/reinterpretation. Caltrans representatives and NAAC members discussed the issues that Will raised about purpose of the signage and the intent of the directive. Bo Mazzetti, NAAC Member stated that Caltrans should not

change the policy; overall the policy is good. Revising Caltrans' directive to now declare what is/is not a Reservation or Rancheria is inappropriate because it is not Caltran's role to interpret the question. The Bureau of Indian Affairs makes that determination which is what Caltrans relies on to implement the directive. The NAAC tasked NALB to review its files and past NAAC meeting minutes to see if there were discussions about the intent and scope of the directive. NALB will report on its findings at the next NAAC meeting.

Announcements: Written announcements for upcoming meetings and workshops were provided on the agenda.

The meeting was adjourned by Chairman Joseph Myers at approximately 12:01 p.m.

INDIAN RESERVATION ROADS PROGRAM COORDINATING COMMITTEE

February 17, 2011

Mr. Donald Laverdure
Principal Deputy Assistant Secretary-
Indian Affairs
Bureau of Indian Affairs
1849 C Street, N.W.
Washington, D.C. 20240

Mr. John Baxter
Associate Administrator
Federal Lands Highway
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Mr. Laverdure and Mr. Baxter:

The Indian Reservation Roads (IRR) Program Coordinating Committee is pleased to meet with you for the bi-annual meeting of the Committee and senior Interior Department and Department of Transportation officials. The Committee is an advisory body to the Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA), established under the IRR Program regulations (25 CFR Part 170) to provide input and recommendations to the agencies concerning IRR Program policies and procedures. The Committee supplements government-to-government consultation between the Federal government and the Indian tribes we represent.

The Committee first convened in 2005, following the Assistant Secretary's appointment of 12 primary and 12 alternate Tribal representatives from each BIA Region. Two non-voting Federal representatives are also representatives to the Committee. We represent small, medium, and large Indian tribes throughout the country. We operate under consensus and strive to provide common sense recommendations to the agencies to improve transportation infrastructure on our reservations and in our Native communities.

Improvement in the areas of health care, education, housing, public safety (law enforcement, EMS, and fire suppression), economic development and highway safety in Indian country can only be realized when transportation systems located on or providing access to reservations and Native communities are built, improved and adequately maintained with appropriate funding. The Committee is dedicated to helping the BIA and FHWA create uniform standards and practices for the IRR Program, to highlight best practices, to improve the criteria for updating transportation inventories, and to establish fair and equitable principles for the BIA and FHWA to interpret and implement the IRR Program regulations.

Our report to you today highlights recent accomplishments of the Committee and the tribes we represent, IRR Program policy matters brought to the Committee's attention, and suggestions we are making to the BIA and FHWA to improve the IRR Program and the work of the Committee.

I. Committee and Tribal Accomplishments

1. ARRA – Under the American Recovery and Reinvestment Act (ARRA), Indian tribes received over \$460 million in one-time stimulus funding to construct, reconstruct and

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improve IRR Program roads and bridges. We are pleased to report that Indian Tribes expended 99.9% of their transportation and road improvement ARRA funds (this figure is in addition to the Tribes' expenditure of between 85%-90% of their FY 2010 IRR Program allocations (\$333 million was available under the IRR Program RNDP formula for construction in FY 2010). The success of Indian tribes expending their stimulus funds illustrates the level of transportation funding need as well as the advantages of standard contract forms to facilitate the negotiation and award of IRR Program-financed projects. The Committee fulfilled its regulatory obligations to Indian tribes in our respective Regions by widely disseminating BIA and FHWA ARRA information and reporting requirements.

2. IRR Program's High Priority Project (HPP) Criteria – At the Committee's June 2010 meeting, the Committee reached consensus and passed a Motion that set out the Committee's recommendations to the BIA and FHWA for the IRR Program's High Priority Project (HPP) Program. In FY 2010, the IRRHPP was funded at \$30.225 million. The IRRHPP enables tribes receiving less than \$1.0 million in RNDP funding an opportunity to finance their highest priority IRR Program project and permits any Indian tribe, regardless of their IRR Program "Tribal shares" amount, access to emergency/disaster funding. We enclose the Committee's June 2010 Rapid City Motions.

3. Other Facilities – Since the IRR Program regulations were issued in 2004 and with the enactment of SAFETEA-LU, other transportation facilities (ice roads, boardwalks, board roads, ferries, transit facilities, etc.) have been eligible to be included by Indian tribes in their IRR Program inventories for funding purposes. At the Committee's June 2010 meeting in Rapid City, the Committee reached consensus and passed a Motion that established the criteria and methodology for those types of transportation facilities to be added to the IRR Program inventory and funded under the RNDP formula. This Motion is also included in the enclosed Motion noted above.

4. Meaningful Tribal Consultation Concerning Question 10 - The Committee appreciates Mr. Echo Hawk's and Mr. Baxter's endorsement and implementation of President Obama's commitment to meaningful government-to-government consultation between the agencies and Indian tribes concerning Departmental action with Tribal implications. The Committee did its part to educate Indian tribes in our Regions regarding the proposed recommendation by BIA and FHWA concerning "Question 10" of the IRR Program funding formula. The well attended consultation meetings that the agencies convened throughout Indian country this past summer illustrate the strong desire by Indian tribes to be active and early participants with the agencies in crafting sensible solutions to improve the IRR Program.

The Committee encourages the BIA to implement its various forms of Tribal consultation, convene meetings with key decision makers and Tribal representatives, and establish a positive environment to jointly develop reasonable solutions.

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II. Committee Issues of Concern

A. Issues Which Impact the Funding Formula

For the last few years the Coordinating Committee has attempted to grapple with challenging issues relating to the agencies' implementation of the IRR Program primary funding formula element, known as the Relative Needs Distribution Factor (RNDF), by which the majority of appropriations for the IRR Program are allocated among Indian tribes (every Indian tribes receives its "Tribal share" of IRR Program funds). In addition to RNDF funds, Tribes receive planning and Population Adjustment Factor (PAF) funds and can participate in the IRR Program's High Priority Project (HPP) Program.

The RNDF funding formula allocates IRR Program funds by the following formula:

50% Cost-to-Construct + 30% Vehicle Miles Traveled + 20% Population

CTC accounts for 50% of the RNDF formula allocation. Committee representatives were asked by the agencies to assist them update Cost-to-Construct (CTC) tables, develop reasonable criteria concerning the addition and formula share of "proposed roads" and to develop criteria concerning "primary access routes." All three issues are challenging for the Committee because they impact the "Tribal shares" Indian tribes receive under the IRR Program funding formula. The Committee is working on making these issues verifiable, measurable, and consistent throughout Indian country.

1. Cost-to-Construct – The Committee has reviewed the BIA's Cost-to-Construct (CTC) procedures as it applies to the IRR funding formula; the manner in which it is applied from Region to Region, its current process for updates, and issues related to terminology, interpretation, and application. The Committee concluded that there is widespread misconception, inconsistencies, and disparity in the implementation of CTC throughout the IRR Program. Not all BIA Regions have updated their CTC tables. This skews the IRR Program funding formula allocation among the BIA Regions. Therefore, the Committee is developing a simplified cost to construct methodology that addresses such issues as calculations, program, design, and bid tabulations.

The Committee has devoted a number of its meetings to the CTC procedures and plans to complete its work later this year. The Committee's recommendations, when complete, will better clarify the roles and responsibilities concerning the CTC process, the requirements and standards for updates to the CTC tables, and the definition of terms contained in the 25 CFR Part 170, Appendix C to Subpart C, Question 6.

2. Proposed Roads – As of 2009, approximately 8,700 miles or 6.5% of the IRR Inventory consisted of proposed roads (roads that do not presently exist but which an Indian tribe has identified in its Long Range Transportation Plan as being needed to be constructed). These proposed roads account for \$5.8 billion of the estimated \$63 billion Cost-to-Construct total for all IRR Program routes (about 9.25%). The BIA provides IRR Program funding for proposed routes included by Indian tribes in their inventories that are to have Tribal or BIA ownership at

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100%, similar to routes that already exist. The inclusion of proposed routes by Indian tribes in the IRR Program inventory is widely inconsistent among the 12 BIA Regions.

The BIA and FHWA asked the Committee to develop reasonable criteria for the inclusion of a proposed route in a Tribe's inventory and for the treatment of such route in the IRR Program funding formula. The Committee is currently addressing the issue and anticipates finalizing its recommendation to the agencies this year.

3. Primary Access Routes - SAFETEA-LU identified a number of transportation facilities to include in the IRR Program inventory that are eligible for assistance under the Program's funding formula. Among the eligible transportation systems were "primary access routes." A primary access route is defined by SAFETEA-LU as roads between villages, roads to landfills, drinking water sources, natural resources identified for economic development, and roads that provide access to airports, harbors or boat landings. SAFETEA-LU requires that primary access routes must be the shortest practicable route connecting two points.

In order to establish uniform, standard policy concerning primary access routes, the Committee has been charged by the agencies with developing reasonable criteria to determine the formula share that a primary access route should generate under the funding formula. Because of the unique attributes of Indian reservations, former reservations and Native communities, and the impact that primary access routes will have to the funding formula, this issue has generated a great deal of discussion and debate among the Committee.

The Committee's four workgroups: Policy and Delivery of Services (proposed routes), and Technical Standards and Funding (primary access routes) have convened in pairs during the last two Committee meetings to develop sensible recommendations and standards for the BIA Regions and Indian tribes concerning these issues. The Committee will continue to draft a consensus recommendation for the BIA and FHWA.

B. Other IRR Program Issues

1. Quality Assurance/Quality Control (QA/QC) Teams - The Committee has long recognized that the creation of uniform standards and criteria for routes included and to be added to the IRR Program inventory is essential to ensure the integrity of the IRR Program. Since 2008, the BIA and FHWA have both endorsed the creation of tri-party BIA, FHWA and Tribal QA/QC teams to review IRR Inventory issues to ensure consistent treatment among BIA's 12 Regions, but to date the formation of QA/QC teams has not occurred. The Committee believes that these teams will play an important role in promoting more consistent inventory practices among the BIA Regions. The Committee stands ready to assist the BIA and FHWA put these teams in place and encourages the agencies to do so as soon as possible.

2. Title I ISDEEA IRR Program template - Since 2006, the Committee has advocated for the creation of a standard construction contract template for Indian tribes carrying out IRR Program projects under Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638). FHWA, following negotiations with Indian tribes, developed its standard IRR Program Agreement and Referenced Funding Agreement templates in 2006. The BIA also approved the use of a standard template for the Self-Governance Program in 2007

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after consultation with Indian tribes. The BIA's Office of Self-Determination Services has not completed its work on a standard contract template similar to the template developed by FHWA pursuant to authority contained in the Safe, Affordable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The Tribal successes of ARRA and regular IRR Program projects that we noted above were possible despite the absence of a standard Title I template that can be used by Tribes and BIA Regions to contract IRR Program functions, services, activities and funding. The Committee encourages the BIA to provide the Committee with its final Title I IRR Program template and funding agreement before the Committee's next meeting in Trinidad, California in April. The Committee also recommends that the BIA provide training concerning the new template and funding agreement to BIA Regional Contracting Officers, Branch of Roads Engineers, and Tribal officials.

3. IRRPCC Tribal Regional Representative Appointment Delays – The Committee has previously brought to the attention of the Assistant Secretary-Indian Affairs the importance of making timely appointments of Tribal representatives to the Committee upon the expiration of a current representatives term as required under the Part 170 regulations (25 C.F.R. 170.155). In some cases, the appointment of a Primary or Alternate Tribal representative to the Committee has been delayed by as much as one year. This has created uncertainty for Tribal representatives currently on the Committee whose terms have expired and uncertainty for Tribal officials who have been nominated by the Tribes in their Region and are awaiting Secretarial appointment.

The Committee further recommends that the BIA and FHWA provide training and Committee materials to all Tribal representatives appointed by the Secretary to ensure their successful integration into the Committee.

4. Committee's letter to AS-IA Concerning the 2010 OIG Report – In May 2010, the Committee wrote to the Assistant Secretary-Indian Affairs concerning the Office of the Inspector General's (OIG) report concerning the IRR Program which portrayed the IRR Program in an unfavorable light. The Committee noted serious deficiencies with the Report which underscored the OIG's lack of understanding of the IRR Program and the role of Indian tribes in implementing the Program. The Committee asked the Assistant Secretary to add the Committee's response to the formal response the BIA submitted to the OIG. To date, although the Committee has learned that as a result of the correspondence received by the Department from Indian tribes concerning the OIG report, the OIG now includes procedures to circulate draft reports to the affected agencies. However, we have seen no formal response from Assistant Secretary regarding the Committee's submissions to him concerning this issue.

5. Functional Classifications - As part of the BIA's and FHWA's consultation with Tribes concerning Q10, FHWA noted the necessity to revise in 2011 the definitions of the functional classifications of transportation facilities used by the BIA that are eligible for inclusion in the IRR Program in a manner similar to the definitions used by FHWA in the Federal-Aid System. FHWA announced that it would advertise for a consulting firm to develop new definitions for the functional classification of community streets, rural major collectors and rural local roads as well as to review and reclassify if necessary existing IRR Program

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inventories based on the revised definitions. FHWA issued a Request for Quotation (RFQ) in January 2011. Quotes were due on February 9, 2011.

For many years, and certainly since FHWA issued its Comprehensive Inventory Report in 2008, the Committee has stressed to the agencies the importance of developing more uniform standards and criteria for the classification of transportation systems eligible to be included in the IRR Program Inventory.

The Committee recommends that FHWA provide frequent updates to the Committee of the consulting firm's activities and prior to finalizing the work product of the consultant, brief the Committee on the recommendations to the IRR Program.

6. Presidential Appointment of USDOT Deputy Assistant Secretary for Tribal Government Affairs – In January 2010, Transportation Department Secretary Ray LaHood informed Tribal officials that the Administration would finally nominate an official for the unfilled position of Deputy Assistant Secretary for Tribal Government Affairs. This position was established under SAFETEA-LU. Indian tribes had long advocated for the creation of this position within the Department of Transportation to elevate Tribal transportation programs within the Department and to coordinate the Department's implementation of these programs. To date, the Administration has yet to nominate a candidate for this critical position. The Committee again calls upon the Department to promptly nominate a candidate to this position.

III. Conclusion

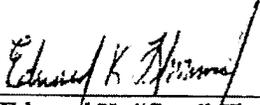
As noted above, the Committee has made progress this past year on matters presented to it by the BIA and FHWA and is continuing to develop consensus recommendations on a number of important issues that impact the distribution of funds under the IRR Program and which will promote more uniform practices and procedures among Indian tribes and BIA Regions. The Committee is committed to fulfilling its obligations as an advisory body to the BIA and FHWA and in educating Indian tribes in our respective Regions concerning the IRR Program. The Committee commends the agencies for engaging in consultation not only with the Committee but with the Indian tribes we represent.

We encourage the agencies to fully implement the Administration's government-to-government consultation responsibilities as the agencies develop and refine policies, procedures and proposed regulations for the IRR Program. In instances where the Committee is finding it difficult to reach consensus, the Committee encourages the BIA and FHWA to utilize appropriate Tribal consultation methods identified in their respective consultation policies to facilitate and promote reasonable solutions. The Committee believes that it can facilitate improvements in the IRR Program through meaningful consultation, collaboration and information sharing with the BIA and FHWA.

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Thank you for affording us the opportunity to make known our concerns and recommendations regarding the IRR Program and federal transportation programs.

Sincerely,



Edward K. "Sam" Thomas, Jr., Chairman
(Alaska Region)



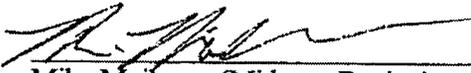
Sampson Begay
(Navajo Region)



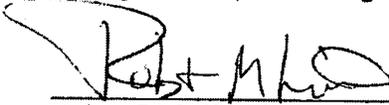
Wayne Wylie (Eastern Ok. Region)



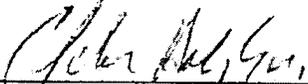
JoAnn Polston (Alaska Region)



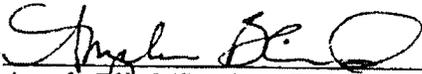
Mike Moilanen (Midwest Region)



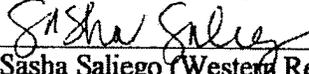
Robert Lieb (Southwest Region)



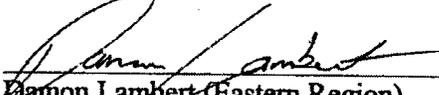
C. John Healy Sr. (Rocky Mountain)



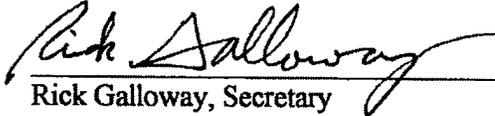
Angela Blind (Southern Plains Region)



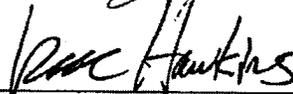
Sasha Saliego (Western Region)



Damon Lambert (Eastern Region)



Rick Galloway, Secretary
(Northwest Region)



Isaac Hawkins (Eastern Ok. Region)

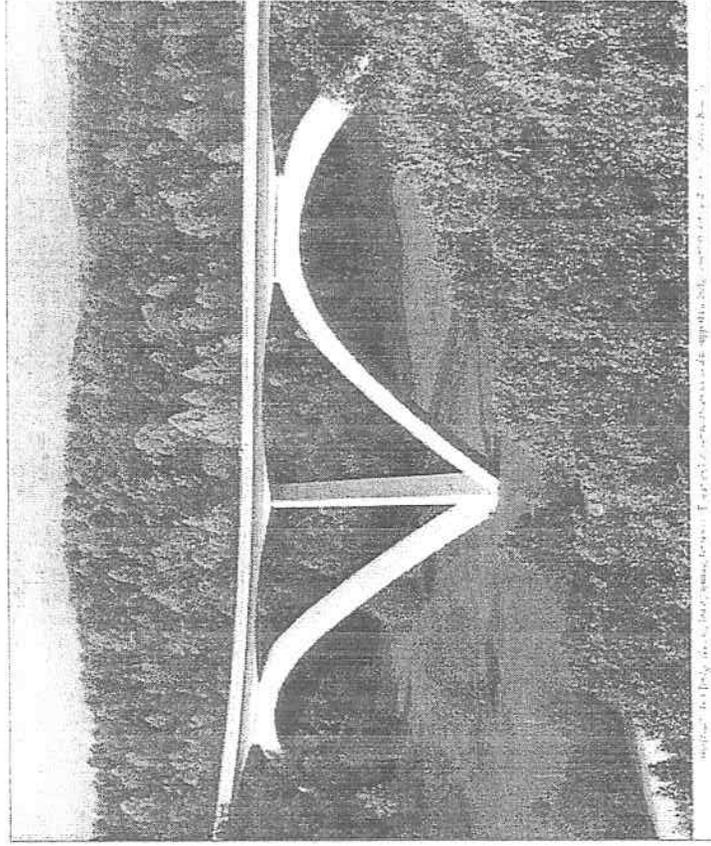
cc: Mr. Larry Echo Hawk
Mr. Michael Black
Mr. Michael Smith
Mr. Brian Newland
Mr. Kevin Bearquiver
Mr. LeRoy Gishi
Edith Blackwell, Esq.
Andrew Caulum, Esq.
Mr. Robert Sparrow
Vivian Philbin, Esq.

Fiscal Year 2012 Budget & Related Reauthorization Provisions

February 16, 2011

Today's Objectives

- Review FY12 budget and related reauthorization proposals
- Highlight other important programs and provisions



Underlying Considerations & Principles

- Modernize our highway system and create jobs
- Focus investment on safety, state of good repair, and livability
- Nationally significant system
- Performance-based
- Support innovations that shorten project delivery and accelerate deployment of new technologies
- Program Consolidation (55 to 5)/Simplify structure
- Emphasis on “Transportation Facilities” supporting Federal lands, i.e., not just highways

Process

- **FY12 Budget**
 - Administration developed budget in anticipation of a new Act
 - Elected to incorporate new program changes into budget submission
 - Released Feb. 14th
- **Reauthorization Bill**
 - Administration is finalizing a proposal
 - Projected Release: Spring 2011

Federal Allocation Program

- Federal Lands and Tribal Programs • Combines programs w/ inherently Federal responsibilities
- Emergency Relief Program • Continue to be separate programs, e.g., no intermingling of funds, eligibilities
- Work Force Development Program

Federal Lands and Tribal Transportation Programs

- Sec 202 - Tribal Transportation Program
- Sec 203 – Federal Lands Transportation Program
- Sec 204 – Federal Lands Access Program

Sec 202 – Tribal Transportation Program

- Budget Proposal includes:
 - FY12 Budget Request - \$600M
 - Includes set asides for:
 - Bridge Program (5%)
 - » Operate the same as current program
 - Tribal Safety Program (2%)
 - » Guidance TBD
 - Planning (increase from 2% to 3%)
 - » to carry out planning requirements plus support collection and reporting of performance management information
 - Refines funding formula by requiring at least 50% of funding be generated by facilities owned by BIA, Tribes, and grandfathered roads
 - Continues 6% takedown for BIA/FHWA administration

Sec. 203 Federal Lands Transportation Program

- Participating Partners
 - National Park Service
 - Fish and Wildlife Service
 - U.S. Forest Service
 - Bureau of Land Management
 - U.S. Army Corps of Engineers
- Eligible activities are identical for all agencies
- Requirement to maintain inventory of trans.
- Supports transportation facilities within Federal estate

Federal Lands Transportation Program (Cont.)

- FY12 Budget - \$430M
 - NPS & FWS: Allocated \$315M of \$430
 - USFS, BLM, USACOE compete for balance of \$115M

Sec. 204 Federal Lands Access Program

- Supports transportation facilities owned by States/Counties that provide access to/through Federal lands
 - Builds upon the Forest Highway Program model
 - Supports a more systemic approach for State/County facilities outside Federal estate(s)
- Formula-based (FY12 - \$177M)
 - All 50 States + DC and Puerto Rico
 - 75% of funds go to States having 1.5% or more of the total Federal public land area
 - 25% of funds go to remaining States
 - Up to 5% takedown for planning
- Facilities accessing other Federal partners' lands, e.g., military access roads, also eligible
 - Data Collection

Other Title 23 Programs of Interest

- Tribal Transit Program
 - FY12 - \$15.3M
 - No major policy changes
- Safety (Increase from \$1.3B to \$2.6B)
 - Minimum of 10% of HSIP funds to be used by States for rural road safety improvements
- Livable Communities
 - \$3.4B Formula to States (Tribes work thru States)
 - \$500M Discretionary Grant (Tribes Direct Recipient)
 - Project-based
 - \$200M Discretionary Grant (Tribes Direct Recipient)
 - Technical Assistance/Professional Capacity Building

Other Title 23 Programs of Interest (cont.)

- Transportation Leadership Awards
 - \$1.3B Program to incentivize Perf. Mgt. (Supports start-up activities (e.g., data collection) and Policy/Program Reforms
 - Tribes direct recipient along with States and MPOs
- National Infrastructure Bank (\$5B)
 - Finances transportation projects of national or regional significance
 - Within USDOT, but governed by board of officials from USDOT and other federal agencies.

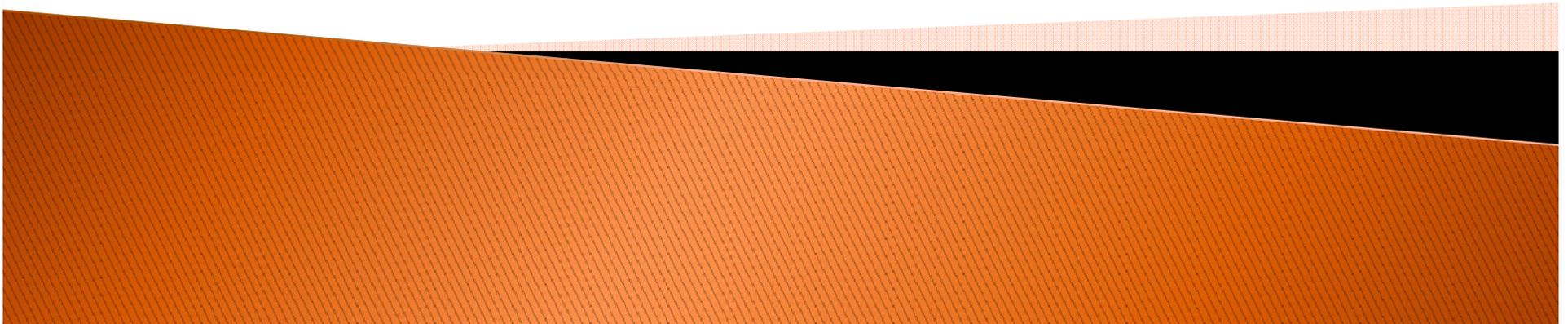
Final Thoughts

- This is the Administration's proposal, which will be an important piece of the decision making process with Congress, but we still have to move forward with current commitments until there is more clarity on the final package.
- However, we do need to start considering how we should proceed with the new proposed programs and be ready for October 1, should this version be passed.

Indian Reservation Roads Program

Native American Advisory Committee

February 23, 2011



Long Range Transportation Plan

- ▶ Clearly demonstrates a tribe's transportation needs and to fulfill tribal goals by developing strategies to meet these needs.
 - These strategies should address future land use, economic development, traffic demand, public safety, and health and social needs.

- ▶ Time line should extend out 20 years to match state transportation planning horizons.



What a Long Range Transportation Plan Should Include

- ▶ An full range evaluation of transportation modes and connections;
- ▶ Trip generation studies, including determination of traffic generators due to land use
- ▶ Social and economic development planning
- ▶ Measures that address health and safety concerns relating to transportation improvements



What a Long Range Transportation Plan Should Include

- ▶ A review of the existing and proposed transportation system to identify relationships between transportation and the environment
- ▶ Cultural preservation planning to identify important issues and develop a transportation plan that is sensitive to tribal cultural preservation
- ▶ Scenic byway and tourism plans



What a Long Range Transportation Plan Should Include

- ▶ A prioritized list of short and long-term transportation needs
- ▶ An analysis of funding alternatives to implement plan recommendations



How the IRR Long Range Transportation plan developed

- ▶ The Plan is developed by the tribe working through a self determination contract or self governance agreement or other funding; or
- ▶ The BIA upon request of, and in consultation with, a tribe.



How the Long Range Transportation plan used and Updated

- ▶ Tribal government uses its IRR long-range transportation plan in its development of a Tribal Transportation Improvement Program (TTIP)

- ▶ In order to be consistent with State and Metropolitan Planning Organizations planning practices the tribe should:
 - Review the LRTP annually: and
 - Update every 5 years



Transportation Improvement Program

Establishing a Tribal Priority List

- ▶ The tribal priority list is a list of all transportation projects that the tribe wants funded
 - Which may or may not identify projects in order of priority
 - Is not financially constrained
 - Is provided to the BIA by official tribal action, unless the tribe submits a Tribal Transportation Improvement Program (TTIP)



Tribal Transportation Improvement Program (TTIP)

- ▶ Must be consistent with the tribal long-range transportation plan;
- ▶ Must contain all IRR program funded projects programmed for construction in the next 3-5 years
- ▶ Must Identify the implementation year of each project scheduled to begin within the next 3-5 years



Tribal Transportation Improvement Program (TTIP)

- ▶ May include other Federal, state, County or other municipal, transportation projects initiated by or developed in cooperation with the tribal government
- ▶ Will be reviewed and updated as necessary by the tribal government
- ▶ Can be changed only by the tribal government
- ▶ Must be forwarded to BIA by resolution or tribally authorized government action



IRR Transportation Improvement Program (IRRTIP)

- ▶ Must be financially constrained
- ▶ Must include eligible projects from tribal TTIPS
- ▶ Is selected by tribal governments from TTIPS or other tribal actions
- ▶ Is organized by year, State, and Tribe



How Projects Are Placed on the IRRTIP

- ▶ BIA selects projects from the TTIP or tribal priority list for inclusion on the IRRTIP as follows;
 - The tribal government develops a list of detailed tasks and information for each project from the tribal priority list or TTIP
 - BIA includes project information into it's region wide control schedule



How Projects Are Placed on the IRRTIP

- ▶ BIA must include projects that are scheduled in the next 3-5 years
- ▶ BIA develops the IRRTIP after consulting with the tribes and taking their priorities into account



Approval process of the IRRTIP

- ▶ BIA Regional Office forwards the IRRTIP to the Secretaries for review and approval
- ▶ Federal Lands Highway Office will provide copies of the approved IRRTIP to the FHWA division office for transmittal to the state transportation agency for inclusion in the State Transportation Improvement Program (STIP). The Approved IRRTIP will be returned to BIA



Approval process of the IRRTIP

- ▶ BIA sends copies of the approved IRRTIP to BIA Region Offices and tribal governments
- ▶ Within 10 working days of receiving the approved IRRTIP and IRR program funds, BIA enters the projects into the Federal finance system.

