

**Native American Advisory Committee
Quarterly Meeting Minutes
Woodland, California
October 26, 2010**

Welcome and Introductions: Chairman Joseph Myers opened the meeting at 9:12 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 Caltrans Transition Plan added as a new business item to agenda. The Agenda was then adopted for the October 26, 2010 meeting.

Approved Minutes: Chris Howard moved to approve the July minutes. Jacque Hostler seconded the motion.

Members in Attendance: Dennis Hendricks, Tuolumne Rancheria; Dorie Bietz (Alternate) Tuolumne Rancheria; Stacy Dixon, Susanville Indian Rancheria; Chris Howard, Elk Valley Rancheria; Chairman Joseph Myers, National Indian Justice Center (NIJC), Donna Miranda-Begay, InterTribal Council of California, Inc.; Elizabeth Hansen (Alternate), California Indian Manpower Consortium, Inc.; Sandi Tripp, Karuk Tribe; Joel Bravo, Smith River Rancheria; Timothy Bactad, Viejas Band of Kumeyaay Indians; Jacque Hostler, Trinidad Rancheria.

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

Others in Attendance: Lisa Haws, Staff, Viejas Band of Kumeyaay Indians; Gregory Fisher, TERO Commissioner, Colorado River Indian Tribes; Theo de La Rosa, TERO Director, Colorado River Indian Tribes; Penny Cordova, TERO Director, Hoopa Valley Tribe; Russ Crabtree, Tribal Administrator, Smith River Rancheria; Adam Geisler, La Jolla Band of Luseño Indians; Dave Moore, Acting Deputy Director, District 2 Caltrans; Kendee Vance, Native American Liaison, D-2; Nieves Castro, Native American Liaison, District 3; Richard Olson, District 3; Marta Frausto, Native American Liaison, District 6; Kathleen McLafflin, Native American Liaison, District 10; Tina Biorn, Chief Native American Cultural Studies Branch; Tim Seward, Attorney, Hobbs, Strauss; Kimberly Johnston-Dodds, NALB; Tony Snow, 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. Caltrans Status Update – Budget Impacts, etc** – Sharon Scherzinger provided an overview of the impacts the new budget is causing on Caltrans. The department as a whole, on the capital outlay side, has taken a cut of 500-700 positions statewide. In Division of Transportation Planning, the Project Initiation Documents program (PIDs) is being cut by 54 positions statewide. Caltrans as a whole is in a process of reprioritization. Caltrans did receive one-time state bonds and federal stimulus funding, but expects a slow down in terms of development and production of products in the foreseeable future.

Sharon stated that Caltrans is including information related to the tribes in the transition package for the new administration. The information consists of a discussion of the Native American Advisory Committee and TERO. Another area that could be added is transportation principles the NAAC recommends as we enter into reauthorization. She also confirmed that the Native American Liaison Branch and the NAAC will continue and are not at risk of being cut.

Marty Tuttle stated that Caltrans is hopeful that the next administration will invest more into transportation, but that work is largely being suspended or pushed to the counties to take on. The current impacts are on statewide projects, and we need to have tribes on the front end of projects. Jacque Hostler shared that in District 1, Trinidad Rancheria was told that the tribes would need to pay for planning if they wanted to move projects forward. For instance if they did a PSR they'd have to reimburse Caltrans to do the PSR. Sharon stated that has changed, because the planning is focused on safety projects. Martin Tuttle added that the governor has taken money out to cover the reimbursements for local governments, but we do not have the authority to accept reimbursements either.

Donna Miranda-Begay (InterTribal Council) stated that it is important that there be input by tribes in the development of the transition package and suggested that the NAAC needs to have a chance to include their top five priorities in the transition package. NAAC decided to develop a memo in the next week and share it with NAAC for review. The goal is to have it included in the Transition Package for the next administration.

- 3. California Legislative Analysis Report** – Kimberly Johnston-Dodds sent a final status report for the 2010 legislative session to the NAAC on October 1, 2010. The next session starts in January 2011. The NALB and Caltrans have submitted proposed legislation regarding contracting with tribes for consideration by the new administration for the 2011 legislative session. During past legislative sessions, the proposed legislation has been approved and moved forward to the Department of Finance and the Governor's Office of Planning and Research successfully. However, the Governor's Office did not submit it to the legislature for consideration.
- 4. Tribal Safety Summit** – Chairman Myers noted that at the July advisory committee meeting the NAAC discussed with the FHWA representative the opportunity to convene a summit in California in 2011. The NAAC then discussed various topics

that could be addressed in a California summit. Such topics included the challenges that exist with safety in California, having a balance between educational sessions and working sessions to develop a proposed action plan in moving safety issues forward. As an outcome of the summit, there was an interest providing recommendations to Caltrans to be incorporated in the next State Highway Safety Plan (SHSP). CA/NV Tribal Technical Assistance Program (CA/NV TTAP) is developing a survey for Tribes to provide information regarding what key safety issues exist among California tribes. The time frame were looking at is late May and early June. We are thinking the best location is in Sacramento. The summits vary in size, but we would like to have at least 100 tribal people to attend the event. There needs to be discussion of the relationship between tribes, tribal police, and CHP. We are in a catch 22 with safety on reservations; there is not money out there to focus on safety on reservation, and data is needed to bring in additional money. Bringing in these safety audits, especially in rural areas, is important.

- 5. Tribal Employment Rights Ordinance** – Martin Tuttle provided an overview of the activity that has taken place with TERO since the last NAAC meeting, including sharing the draft Caltrans Deputy Directive on TERO that was developed with input by TERO representatives statewide. Once approved, the updated TERO policy will be the general policy for Caltrans for working with any tribe that has a TERO.

During the policy development process, the director made it clear that the hiring preference was a priority for her and she wanted that to happen. The draft policy states that projects have to be on the TERO tribe's reservation, but that the project is able to go beyond the tribal land if it is on the IRR inventory. Fees would only apply to portions that are on tribal land: Caltrans would look at the overall value of the project, and then apply the TERO fee to the percentage of the whole that is on tribal lands. We are working on a mechanism where Caltrans would pay the fee directly to the tribe, since we can't force the contractor to pay it. The Districts would need to enter into MOUs with TERO tribes to move forward with the TERO policy.

While reviewing the draft Deputy Directive on TERO (DD-74R2) with the NAAC, Martin Tuttle shared that the policy needs to be broad and clear so that the districts can work with it and enter into strong MOUs with the tribes. He also mentioned that it needs to be legally defensible so that when Caltrans is challenged, the department will be able to defend the policy and ensure it is not immediately overturned.

A great appreciation was expressed for the participation of TERO representatives at the statewide meeting and on the workgroup because this input by the tribes played a great role in shaping the content of the policy draft and in successfully moving the effort forward.

There was some discussion on the draft policy, and meeting participants provided suggestions regarding how it might be updated:

Sandi Tripp (Karuk) suggested that the draft TERO policy also needs to include trust land so that it would cover all tribal lands that are federal. Chairman Myers suggested that we do need to define tribal lands or else we will be challenged, but we should stay away from the term reservation because there are tribal lands that are not included in reservations. We need to make sure that we include both trust and fee lands. Donna Miranda-Begay asked that we not forget allotment lands because different tribes treat allotment lands differently. It was agreed that Caltrans would change the wording from reservation to tribal lands in the draft TERO policy.

A suggestion was made that the TERO working group could continue to exist to help with the implementation of the TERO policy and to work with tribes to help them develop TEROs. Caltrans does offer apprenticeship grants that might help to train and put together TEROs.

A question was raised about tribes who are unable to get the roads on the IRR, even though they qualify. Another issue was raised in regards to contractors with ACE crews who come in and don't really follow the hiring preference. Jacque Hostler stated that the tribes need to have something in place to protect their members and their apprenticeship, and the contractors need to play by the rules. It is also up to the tribes to develop a relationship with the contractors.

6. **Tribal Technical Assistance Program (CA/NV TTAP)** – Chairman Myers reported on the TTAP trainings and meetings held from July – October 2011. The TTAP participated in the NAAC meeting held in Garden Grove, CA on July 14, 2010 with the Director of Caltrans; July 15-16 in Garden Grove conducted several workshops, a mock DUI court for teens, BIA conducted a tribal tourism workshop and Safe Journeys for Youths (youth traffic safety); July 26-28 held a cultural monitor training at Viejas that had over 50 participants; July 26-30 conducted a workshop in Flagstaff, AZ on tribal right-of-way issues; August 25 held working effectively with tribal governments workshop at Shingle Springs Rancheria; September 2 participated in the Caltrans and Tribal TERO meeting in Woodland, CA; September 8 Kelly conducted another workshop with US EPA in San Francisco. Several other TTAP trainings have occurred throughout the state during this period. A suggestion was made that there are infrastructure management and workforce development needs that should be considered in the TTAP program into the future. FHWA and Caltrans are conducting a new initiative, Every Day Counts. TTAP is making efforts to make sure tribal representation is included in the California meeting and discussions. Chairman Myers also reported on a discussion between FHWA and BIA regarding which agency may be handling Indian transportation into the future, and it looks like it will be with the FHWA.

7. **Indian Reservation Roads** – Jacque Hostler discussed the BIA Question 10 PowerPoint that was presented at the August 19 BIA consultation meeting in Sacramento. Historically, California has had one of the lowest amounts of miles on the inventory. Jacque explained how the question currently affects California and

non-California tribes. She explained how funding works with the IRR roads, and projects on them. She encouraged the NAAC and tribes to continue to comment on the proposals and updates as they are made available by BIA and FHWA. The next round of comments need to be submitted by Friday, October 30.

Chris Howard thanked Caltrans for attending the August consultation and showing the Department's support of California Tribes' efforts, it does have an impact on FHWA and the BIA.

New Business:

1. **2011-2012 NAAC Nominations** – Nominations and related biographies were distributed to current NAAC members in attendance. The votes were tallied with the following results recorded. Effective January 1, 2011, re-elected members will be Joseph Myers, National Indian Justice Center; Lorenda Sanchez, California Indian Manpower Consortium; Bo Mazzetti, Chairman, Rincon Reservation; Stacy Dixon, Susanville Indian Rancheria; and Dennis Hendricks, Tuolumne Band of Me-wuk Indians. Effective January 1, 2011 new NAAC members selected will be Carlos Hernandez, Big Pine Paiute Tribe of the Owens Valley; Gaylen Lee, North Fork Rancheria; William Micklin, Ewiiapaayp Band of Kumeyaay Indians; and Adam Geisler, La Jolla Band of Luiseno Indians.
2. **Schedule 2011 NAAC Meetings** – The NAAC approved the following dates for the 2011 quarterly meetings, Wednesday, February 23, 2011, Wednesday May 25, 2011, Wednesday August 24, 2011, and Wednesday November 16, 2011. Discussion was held regarding proposing that the May or November meeting be held in Southern California, perhaps the meeting in May could be scheduled immediately before the proposed Tribal Safety Summit.
3. **Central Valley Environmental Justice Grant Report** - Donna Miranda-Begay provided a presentation about the Environmental Justice grant received last year for \$250,000. Donna gave advice to folks who might be considering applying for a grant into the future. The grant focused on Tribal environmental justice, transportation, SJV blueprint planning, and cultural resources mapping. She also discussed the traditional history behind transportation and waterways. A 70 page report was put out after the project was completed. This can be found on the project website, www.catribalej.com until March 2011.
4. **Environmental Justice Grant Review Process** - Chris Howard brought up the Environmental Justice grant process. He pointed out that tribes are competing for these grants in attempt to accomplish just what Donna was able to accomplish, and he is concerned by the fact that in the 2010 Environmental Grant cycle, only one tribe received a grant. In the 2010 grant cycle, past grant performance was considered in the grant review process, and this criterion was not included in the application process. The Environmental Justice and CBTP grant review process was combined, and this may have hurt the tribes' ability to be competitive. In the previous year, Elk

Valley's application was one of the number one applications, but they did not receive a grant this time around. Chris Howard wanted to make sure it was noted that the delays with their current grant were on Caltrans side, and that was held against them.

Tom Neumann explained how the grant review process was completed and shared that there were a considerable increase in the number of applications submitted this year which made this cycle especially competitive. The process is going to be reviewed and improvements will be made for the upcoming grant review cycle; Lonora Graves and Ed Philpot have been collaborating on the process to improve it. It is important that the tribes work with the District Native American Liaisons on future grant applications so the liaisons can assist them in the grant application process and so they can be there to champion for the tribes. It would be good to hold training on the grant process. Kathleen M. wanted to encourage applicants to try to get their applications done early so that the district NAL can take a look at their application and try to assist in any way possible.

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.