

**Native American Advisory Committee
Quarterly Meeting Minutes
Woodland, California
August 24, 2011**

Welcome and Introductions: Chairman Joe 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 August 2011 meeting.

Approved Minutes: Stacy Dixon moved to approve the June 2011 meeting minutes once the spelling of his name is corrected. Lorenda Sanchez seconded the motion. The minutes were approved.

Members in Attendance: Joel Bravo, Smith River Rancheria; Stacy Dixon, Susanville Indian Rancheria; Greybuck Espinoza, Viejas Band of Kumeyaay Indians; Adam Geisler, La Jolla Band of Luiseño Indians; Dore Bietz (Alternate), Tuolumne Rancheria; Carlos Hernandez, Big Pine Paiute Tribe; Chris Howard, Elk Valley Rancheria; Bo Mazzetti, Rincon Band of Luiseño Indians; Connie Reitman-Solas (Alternate), InterTribal Council of California, Inc.; Chairman Joseph Myers, National Indian Justice Center (NIJC), Kelly Myers (Alternate), National Indian Justice Center, CA/NV TTAP; Lorenda Sanchez, California Manpower Consortium, Inc.; Sandi Tripp, Karuk Tribe of California; Michael Garcia (Alternate), Ewiiapaay Band of Kumeyaay Indians.

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: Russ Crabtree, Smith River Rancheria; Robert Pinto, Ewiiapaay Band of Kumeyaay Indians; David Quintana, Viejas Band of Kumeyaay Indians; Curtis Grinnell, Bureau of Indian Affairs; Jim Hatch, Bureau of Indian Affairs; Holly Sisneros, CA Dept. of Public Health; Karissa Anderson, CA Dept. of Public Health; Dave Moore, Caltrans, District 02; Jesse Bhullar, Caltrans, Traffic Operations; Jorge Rivas Jr., Caltrans, District 3; Kathleen Sartorius, Caltrans, District 01; Kendee Vance, Caltrans, District 02; Laurie Waters, Caltrans, Office of State Planning; Maria Rodriguez, Caltrans, District 10; Tina Biorn, Caltrans HQ Environmental Division; Kimberly Johnston-Dodds, Caltrans, Native American Liaison Branch; Tony Snow, Caltrans, Native American Liaison Branch.

Agenda Items:

1. **Caltrans Update:** Martin Tuttle provided the Caltrans update. After celebrating Joe Myers' return to the NAAC after his illness, Marty reported on the 2011 Environmental Justice grant cycle, letting the NAAC know that four out of the five Tribes or Tribal Organizations that

submitted applications were awarded grants. Alyssa Begley provided additional information on the selection process, and let the committee know that announcements for the next round of grant applications will be made in December. Chris Howard mentioned some concerns he had about the timing and the process for matching funds for an Environmental Justice Grant, and a meeting will be scheduled to address these questions in more depth.

Alyssa Begley also shared that environmental documents were released by the California High Speed Rail Authority for the first section of the HSR project. As a commenting agency, Caltrans can not formally conduct tribal consultation for the High Speed Rail Authority, but the Department wants to be sure the tribes know what is happening. There was a question on whether HSR goes through Indian country; Kelly Myers said that the rail comes close, and there has been no discussion with Tribes. It looks like the rail is going through three tribal areas: two federally recognized and one not recognized. There was a great deal of discussion by the committee on how consultation is not taking place; this is of concern to the Tribes that might potentially be impacted.

2. **Encroachment Permits Fact Sheet:** Tony Snow shared an updated Encroachment Permits fact sheet, the purpose of which is to describe the protocol a Tribe would follow to request an encroachment permit from Caltrans, and described the changes that have been made to the document since the last NAAC meeting. Bo Mazzetti wanted formal approval of the fact sheet, so the committee reviewed the updated document collectively and agreed that it was sufficient to serve this purpose. Chris Howard moved to approve the fact sheet as a tool that helps describe the process for requesting encroachment permits. Lorenda seconded the motion, and the NAAC voted to approve the fact sheet.

The committee suggested a possible need to develop additional fact sheets on subjects such as Tribal Right of Way processes, instances where Right of Way is in dispute or there are other jurisdictional concerns, the process for acquiring permits for ROW crossing state highways, and explaining the project development process. Chris Howard, Kelly Myers, and Alyssa Begley expressed a willingness to participate on a working group to address possible future fact sheets on these subjects.

3. **Legislative Report:** Kimberly Johnston-Dodds reviewed the written legislative report paying special attention to AB 307, which adds federally recognized Tribes to the Joint Exercise of Powers Act definition of a public agency. This bill was enrolled on August 15. Bo Mazzetti reported that the NAAC has been working on this issue since 1996, and this bill is important to the Tribes' ability to work with regional agencies. A report was also given on AB 968, a bill that proposes creating a Native American Advisor on Tribal issues position in the Governor's office. This bill may be dead, but the Tribes are pursuing the creation of the Governor's level secretary directly with Governor Brown.
4. **Tribal Employment Rights Ordinance (TERO) Issues in California:** Lonora shared that the Native American Liaison Branch and the TERO Working group are in the process of developing TERO MOU guidance that can be used by District Directors when working with the Tribes with TERO in their Districts. This guidance will address a number of the concerns that were raised by the workgroup and by Caltrans during the policy review process; it is taking a little longer than previously anticipated because of the complexity of contract

development and the delivery process: consistent bid documents that are in accordance with state contracting law are required, and Caltrans has little flexibility in this. Kim has worked with staff in Districts 1 & 2 who have experience working with the language. She was able to find some additional information that needs to be included in the guidance.

Joe Myers acknowledged that Caltrans management agreed to honor the on-reservation aspects of the TERO provisions, and acknowledged that the department probably needs a little time to pass before we pursue the question of “near” reservation as it relates to TERO. It was mentioned that TERO is a permissive policy, and that Caltrans wants to be collaborative but also to have something that is legally defensible, so right now, the focus is on building some successes for the policy as it currently stands before attempting to push it forward. Bo noted that the only reason we were even able to move forward on TERO in the first place was that there was an opinion from the attorney general; however, if there continue to be problems implementing TERO then the issue will have to go back to the AG Office again.

There was discussion on the need to ensure that conflict resolution is included in the MOU guidance and to ensure the contractors are educated about the TERO process. Kelly commented on the need for Tribes to position themselves to be competitive in the hiring process and to be sure that their TERO policies are in place and accessible so that contractors can figure out how to work with the Tribe’s TERO. Connie Reitman-Solas expressed a willingness to help coordinate a strategy for Tribes to identify the required skills and certifications for state highway projects and work to ensure more are certified as required especially in relation to the High Speed Rail Authority projects.

Several District projects were mentioned during an open forum discussion, especially in connection to District 1. The challenge in implementing the TERO directive in this case appeared to be communication. If the Tribes don’t know or Districts don’t provide information on a project to the TERO Office, the Tribes can be caught off guard and miss opportunities to share with qualified individuals from their skills bank. The office engineer website was mentioned as a resource for Tribes who want to know what projects are upcoming. There is an opportunity to “opt in” and receive information on all upcoming projects. Additional information will be shared on this subject.

Lorenda Sanchez reported back to the committee on the 2011 National TERO Conference that she attended. During the TERO meeting, Lorenda presented on the Director’s Policy and Deputy Directive on TERO: she shared that the MOU was in process and will be distributed when it is complete. In general, there seemed to be an appreciation by the TERO meeting participants for Caltrans’ pursuing the updating of the TERO policy in a collaborative process, and a number of questions were asked about how the Tribes and the State got to where we are now.

Adam Geisler shared information on the TERO job training database that is currently under development in Southern California. The proposal is to increase employment opportunity awareness among the American Indian community and provide training. They created a two phase process: phase one was to create the database core foundation. Fees per posting will fund this database. Phase two will create login capabilities for both American Indians and

Federally Funded Organizations. This database would allow Tribes who don't have a TERO to also participate in the TERO process. This database is being supported by the Southern California Tribal Chairman's Association which agreed to administer the database on a daily basis. It is being created from scratch right now, but it is something that might be usable as a model in the future. The cost to develop the database will be around \$10 thousand, and there will be a need for ongoing staffing for the database. This database committee is trying to get letters of support.

5. **Tribal Technical Assistance Program (TTAP) CA/NV Update:** Kelly Myers gave a brief update on TTAP activities: she reviewed the schedule of upcoming events, and clarified that the Emergency Management trainings on the TTAP schedule are different than the ones that Connie is discussing later on the agenda. Additional information can be found on the TTAP report.
6. **Bureau of Indian Affairs:** Curtis Grinnell shared that the funding formula has been run using the updates processed during the effort to address the 2010 backlog in IRR Inventory updates for California tribes. These funds have to be obligated by the end of September, and this will happen under existing contracts. State routes were not included when the funding formula was run, but city and county routes were. BIA Pacific Region is also working to update their cost to construct numbers because right now they are very low. BIA Pacific Region also needs the ADT counts for the Tribes' routes so they can be updated in the database. Caltrans will assist BIA Pacific Region in this effort.
7. **California Interregional Blueprint Update:** Laurie Waters gave a brief overview of the California Interregional Blueprint, and then discussed the products that have come out of the CIB process including the progress report that shows all the components of the CIB process. Right now, the CIB team is working on the second concept, which is the interim report. There is a working group to deal with the needs of the interim report, and there are two Tribal representatives on the team: Sandi Tripp and Chris Howard. The CIB team will be holding two stakeholder workshops to update everyone on the progress: November 4 in Sacramento, and November 8 in Los Angeles. In spring, there will be a larger forum held to show the CIB draft report. Laurie asked that that NAAC help provide a Tribal and possibly a rural perspective for the CIB development. Beyond that, they are looking to the NAAC to help define what the CIB can do for the Tribes in California. An attempt is being made to capture the Native American perspective in the California Household Travel Survey which will provide data that feeds into the CIB tools, but the advisory committee might be able to provide additional ideas on how to include Tribes in the process.
8. **Strategic Highway Safety Plan – Engaging in the Process:** Jesse Bhullar gave a presentation on the Strategic Highway Safety Plan (SHSP) and its importance to Tribes. The SHSP is a requirement of SAFETEA-Lu, and it serves as the map to guide the future of roadway safety for the State of California. The plan was developed in 2006 with the goal of creating safer California roadways. Challenge areas were identified, and an implementation plan was created to address the safety issues statewide. Actions are proposed for the challenge areas, and once they are approved, they are acted upon on an ongoing basis to lead to continuous improvement. Last year, 110 of 115 actions were completed. Because the SHSP is based on data, a question was raised about how one can engage in the process if data

is lacking. Jesse mentioned that the team for Challenge Area 16--which deals with improving safety data collection, access, and analysis--is working to find a way to address this issue, and asked that a NAAC member be identified to participate in this process and to represent the Tribes and some of their chronic challenges including the reporting of accidents. Dore Bietz agreed to be the NAAC representative on SHSP Challenge Area 16, and will provide a Tribal perspective for the challenge area team.

9. **Pedestrian Safety/Walking Audit – La Jolla:** With the help of a \$5,000 mini-grant from FHWA, the California Department of Public Health PedSafe Program was able to work with the La Jolla Band of Luiseño Indians to analyze road safety and to identify ways to address the challenges that were found there. This focus is part of Challenge Area 8 on the SHSP. A statewide webinar will be taking place on September 29 from 11 am – noon to discuss the findings from this pilot project in more detail. The PedSafe program is currently seeking additional funding to possibly replicate this effort for other tribes that might be interested.
10. **Emergency Management For Tribal Governments:** Connie Reitman-Solas gave the NAAC an overview of a five-day Emergency Management for Tribal Governments course that the Inter-Tribal Council of California was able to bring to the state using grant funding. The key message of the workshop was Tribes need to be prepared for possible emergencies, but many are not yet prepared; for example, an approved Tribal Mitigation Plan (from FEMA) is required to be eligible for disaster funding, but these plans are not always complete. Isolation of Tribal communities makes these plans important, and as a result, FEMA is willing to offer these training sessions in areas where Tribes reside. All sessions are co-hosted by participating Tribes. An interest was expressed by Caltrans District liaisons in attending these training sessions so that they can understand what is happening and assist if they are contacted regarding road closures, debris removal, etc. A need to make the link for the transportation elements of emergency management planning and preparedness at the transportation planning level was expressed, especially in relation to ingress and egress
11. **Traffic Operations Program Directive 99-03:** Chairman Joe Myers introduced an issue that exists between two Tribes over the placement and the wording on a sign in San Diego County. Joe reiterated that the purpose of the NAAC is to take questions from the Director about Tribal issues or items that deal with Tribes throughout all of California. The question before the committee is about whether Caltrans is following existing regulations and guidelines as outlined in Traffic Operations Program Directive 99-03 on Signing Indian Reservations and Rancherias. In this instance, the government agency to make a determination about the designation of the land in question (whether it is a Reservation) is the Bureau of Indian Affairs, not Caltrans.

Chairman Pinto asserted that the Caltrans freeway sign was wrongfully removed. The letters received by Caltrans stated that the parcel in question did not have a reservation proclamation. Bo Mazzetti responded with some clarification as he was on the original committee that helped create the policy, and reiterated that the intent of the Traffic Operations Program Directive 99-03 is to have boundary and designation signs that indicate where Reservations or Tribal facilities are located. There is not a restriction on the type of sign. The sign currently says “Tribal Offices.”

A request was made that if the policy is updated, it should be done with input from Tribes Statewide. Bo Mazzetti stated that the pictures presented to the committee show the sign is in accordance with the policy that was advocated by the NAAC. Chairman Myers said that since the sign seems to be in accordance with Traffic Operations Directive 99-03, NAAC will provide an opinion only if the Director asks the advisory committee to do so.