

**MEETING MINUTES**  
**TRIBAL TRANSPORTATION SELF-GOVERNANCE PROGRAM**  
**NEGOTIATED RULEMAKING COMMITTEE**  
**EASTERN FEDERAL LANDS HIGHWAY DIVISION OFFICE**  
**21400 RIDGETOP CIRCLE**  
**STERLING, VA**  
**SEPTEMBER 13 - 15, 2016**

**Tuesday, September 13, 2016**

8:15 am – Commence Meeting and Welcome

Welcome by Bob Sparrow the Designated Federal Official for the TTSGP Negotiated Rulemaking Committee and the Tribal co-chairs, Mr. Joe Garcia and Ms. Kay Rhoads.

Darryl Bradley performed an opening prayer

8:25 am – Meeting Agenda was reviewed and accepted

8:30 am – Roll Call of Committee Members

The following primary committee members were in attendance:

- Robert Sparrow, Designated Federal Official
- Joe Garcia, Ohkay Owingeh, Co-Chair
- Kay Wallace Rhoads, Sac and Fox Nation, Co-Chair
- Vivian Philbin, FHWA Office of Chief Counsel
- Denise Michels, Kawarek, Inc.
- Gerald Hope, Sitka
- Palmer Mosely, Chickasaw Nation
- Westley Woodruff, Poarch Band of Creek Indians
- Elan Flippin, FTA
- Jody Clark, Seneca Nation
- David Conner, Red Lake Band of Chippewa Indians
- Michael Hostler, Hoopa Valley Tribe
- Katherine Andrus, FAA
- Darryl Bradley, Navajo Nation
- Jennifer Jack, Salt River Pima-Maricopa Indian Community
- Karen Woodard, Morongo Band of Mission Indians

The following primary committee members were excused from attending:

- Kenneth Martin, USDOT Deputy Assistant Secretary for Tribal Affairs
- John Smith, Wind River Reservation
- Tim Ballew, Lummi Nation
- Ron His Horse is Thunder, Standing Rock Sioux Tribe
- Basharat Siddiqi, FHWA
- Royce Gchachu, Zuni Tribe
- Edwina Butler Wolfe, Absentee Shawnee Tribe of Oklahoma
- LeRoy Gishi, Bureau of Indian Affairs

- Mickey Peercy, Choctaw Nation of Oklahoma

The following committee alternates were in attendance:

- Dean Branchaud, Red Lake Band of Chippewa Indians
- Mary Beth Frank Clark, Nez Perce Tribe

Please see the attached sign in sheets for the others that were in attendance.

9:00 am – The meeting minutes for the previous meeting were reviewed and accepted after minor modifications. Those minutes will be posted on the TTSGP website.

9:15 am – Public Comment

Mr. Sparrow – Thanked the committee members for their patience in having FHWA handle the travel. Although there were a few hiccups, everyone made it to the meeting.

Mr. Conner – Introduced Jim Garrigan and said that the Tribe wanted to have his services, knowledge and expertise at the meetings.

Ms. Clark – Thanked FHWA for getting the website up and asked that an upcoming meeting schedule be added. Also stated that:

- The upcoming regulations on drones would be an important issue in Indian Country; and
- The pipeline safety issues currently ongoing at Standing Rock Sioux were of a great concern.

Mr. Sparrow stated that the Pipeline and Hazardous Materials Safety Administration would be invited to give a presentation at the next meeting.

Mr. Conner – Raised a few questions on travel, the outlaying of costs, and could the committee be told exactly what would be needed by FHWA for reimbursement. Mr. Sparrow said that the information would be provided before the end of the meeting.

Mr. Garcia – Stated the importance of the Drafting Group due to the limited timeframe for the committee. He urged that we continue to move forward.

Ms. Pittman – Shared a request for a presentation on TTSGP at the Self-Governance Advisory Committee meeting in October. Mr. Sparrow indicated that he would be available to address the workgroup.

Additional discussion took place regarding presentations at regional meetings. It was agreed that all material presented during the committee meetings, including minutes, will be posted to the website and can be used by the committee members for presentations at regional meetings.

There were no other public comments.

9:45 am – TTSGP Committee Update/Brief

Mr. Sparrow:

- Reported that the Federal Register Notice for this meeting was late in getting published but that the Notice did contain the names of Dean Branchaud and Connie Thompson as additional alternates to the committee;
- Reported that the website was up and running and ask for suggestions;

- Passed out copies of the Draft Protocols that included proposed Federal changes. The proposed changes were discussed and the Tribal members indicated that they would review them in caucus this morning and provide a response thereafter.
- Discussed future meeting and location dates with the committee. After further discussion, the following meeting dates and locations were approved:
  - o October 18-20, Shawnee, OK
  - o November 15-17, Albuquerque, NM
  - o December 5-7, Atmore, AL

It was agreed that additional dates and locations would be discussed before the meeting is adjourned.

- Discussed the statutory timeline and the possibility of requesting an extension. In order to have the NPRM published by early September, the last meeting of the committee would have to be the February '17 meeting. It was agreed that the co-chairs and DFO would review the status of where things have progressed after the October meeting and decide at that time whether or not to make the request.

10:30 am – Presentations by DOT Modes

#### Federal Motor Carrier Safety Administration (FMCSA)

- Robert Miller, Office Director - FMCSA
- Please see PowerPoint file labeled “FMCSA Presentation”.
- Summary: An overview of what FMCSA does was provided. Questions regarding enforcement on Tribal lands (must be requested by the Tribe) was discussed and direction was given that Tribes wanting to start their own motor carrier safety office or just learn more about the program should contact the FMCSA Office Administrator in the state for assistance. Tribes are eligible recipients for FMCSA Safety Grants. Contact information and information on the High Priority Grants Program will be provided for posting. There was open discussion on the lack of awareness of agency, role, and opportunities between FMCSA and Tribes and how we must work together to close the gaps. Communication with Tribes and overall processes must be improved. It was recommended that all parties consider another forum to continue and address the gaps and issues. Messrs. Sparrow and Miller agreed to follow up.

#### Maritime Administration (MARAD)

- Alyson Azzara, International Trade Specialist - MARAD
- Please see PowerPoint file labeled “MARAD Presentation”.
- Summary: An overview of MARAD was provided. Any questions or information requested by the Tribes should go through the Directors in the Gateway Offices. A question was asked regarding ice roads. Ms. Azzara indicated that MARAD was not a regulatory agency and the Coast Guard or State DNR would have the lead. She also indicated that there are 15 different departments within MARAD and that they each have their own regulatory requirements, so it would be best to contact the Directors as indicated above.

#### National Highway Traffic Safety Administration (NHTSA)

- Kristen Allen, Highway Safety Specialist, NHTSA

- Please see PowerPoint file labeled "NHTSA Presentation".
- Summary: An overview of NHTSA's Native American/Alaska Native Highway Safety Program was provided. Funding for this program is provided directly to DOI. Additional off-road information was requested by Ms. Clark. The information will be provided and posted on the website. Region 6 of NHTSA has responsibility for Indian Nations and BIA coordination carried out at the top level. An additional presentation from NHTSA was requested for the next meeting.

12:15 pm – 1:30 pm – LUNCH

1:30 pm - Re-reviewed the proposed Federal changes to the Draft Protocols.

2:15 pm – Tribal Caucus

3:40 pm - Reconvened full committee

Summary: From the committee, a template was developed for recording comments from the workgroup meeting. From the Federal officials, there was a report out on a statement that is requested to be added to the protocols.

Mr. Sparrow went through the revised protocols and a hard copy was distributed. Two additional changes were requested: Change Working Group to Work Group, and Tribal members to Tribal members/citizens. Ms. Clark made the motion to accept Protocols, it was seconded by Mr. Hope, no other discussion or objections were raised, and the motion was passed by consensus.

Additional Discussions:

- Jody requested that the Committee would like to see how each of the 11 operating administration is funded. Mr. Sparrow will coordinate that for Oct meeting.
- The designation of Federal committee alternates was requested. Mr. Sparrow will provide at the October meeting.
- The Administration workgroup (Jody Clark) discussed a table of information that was developed.
- The Operations workgroup (Denise Michels) discussed a list of regulations that are already covered.
- Co-chairs asked if there is anything else to discuss before adjournment.
  - o Summarized that the agenda will change with an 8:30 presentation on Self-Governance by Mr. Strommer and that the protocols will be signed and distributed to the committee tomorrow.
- Co-Chairwoman Rhoads asked the Committee to think about the drones issue and the pipeline issue tonight in the context of this effort.

4:25 pm - Meeting Adjourned for the day

### **Wednesday, September 14, 2016**

8:15 am – Meeting was called back to order and a morning prayer was given.

8:20 am – New attendees were asked to identify themselves. See attached sign in sheet for September 14, 2016. Federal representative Kenneth Martin joined the meeting.

8:30 am – Self-Governance presentation given by Mr. Geoff Strommer. This is the 40<sup>th</sup> anniversary of the Self-Determination Act. Mr. Strommer discussed the history and ideas of self-governance/self-determination from a high level and handed out a booklet for all to use as a reference. Over 50% of the Tribes deliver programs through self-governance either through BIA or IHS. Questions and comments followed including numerous Tribal members of the committee providing words on their own experiences with Self-Governance.

9:45 am – Committee Discussion

- Co-Chair Garcia explained and presented a chart showing the Flow Process for the work of the Committee through the Final Steps for Rule. (See File named “Flow Process for FHWA Neg-Reg Information”). Michael Hostler thanked Mr. Garcia, recognized how this helps define communication from committee/workgroups out/in the Tribes. Mr. Garrigan suggested the need to add addressing comments after publication of the Proposed Rule. Ms. Clark suggested adding separate workgroups and committee boxes into two steps before asking if the proposed rule is ready. Mr. Strommer emphasized the need for connection between the committee and the comments. Messrs. Garcia and Sparrow agreed and the chart will be updated but stated that the intent this morning was a simple approach and that much of what is being discussed is far out in the process.

10:00 am - Break

10:15 am – Committee members broke into workgroups for the remainder of the day.

5:00 pm - Meeting Adjourned for the day

#### **Thursday, August 18, 2016**

8:15 am – Meeting was called back to order by Co-Chair Garcia and a morning prayer was given

8:15 am – Public/Committee Comments/discussions

- Mr. Sparrow went over the agenda. Due to travel of some of the members, the full committee will reconvene at 1:30 pm for report outs instead of at 3pm.
- Mr. Martin updated the committee on activities at the DOT-SG office. OST is still gathering input from other agencies and working through the Department, and working on future budget activities.
- Ms. Michels stated that her Workgroup’s #1 priority is clarification of PFSA’s, USDOT funding, programs, and funding flow.
- Mr. Hope asked about participation at the Tribal nations meeting. Mr. Martin will attend. He also added that the hope is to end up using the current DOT-SG structure but with improvements. Better internal communication will be needed at DOT.
- Mr. Mermelstein asked for additional NHTSA participation. Mr. Sparrow mentioned that the NHTSA Region 6 Office that handles Tribal coordination is in Ft Worth and that they have been invited to attend the next meeting. Mr. Martin did add that he would like each mode represented on a regular basis but financially that is a challenge.

- Future staff and funding for a Self-Governance Office at DOT after the rule is in place was also discussed. Mr. Hope mentioned that it is also in the Tribes' hands to advocate for funding and staffing and to advocate in the budget process.
- Co-Chair Garcia reminded everyone about the signed Protocols and how the committee will carry out its business.

9:00 am – The committee broke into workgroups.

1:30 pm – The full committee reconvened and workgroup briefings were provided

- Ms. Michels discussed the Operations Workgroup. They have prioritized their top 4 items. They have begun working on NEPA and the Construction, Design/A&E, and standards.
- Ms. Clark discussed the Administrations Workgroup. All members felt very good about the meetings collaboration and progress.
- Both workgroups kept meeting minutes, will make them available for review. Both workgroups will share and exchange to ensure no overlap and no gaps. Discussion opened on if the workgroup meeting minutes will be posted on the web, and/or sent by email, and/or other. Discussion resulted in the need to clean up these minutes for input and approval prior to be posted.
- Both workgroups will be working on their topics virtually over the next month prior to the next meeting.
- Mr. Sparrow shared the plan to preparing minutes and proposed following the same process.

2:00 pm – General Discussions

- Mr. Sparrow:
  - o Shared that the October meeting will be in Shawnee, OK week of Oct 17<sup>th</sup>;
  - o Reinforced the need to get travel vouchers in ASAP (Monday at the latest) in order to get reimbursement into the system before it closes for the fiscal year;
  - o Covered the activities related to making travel arrangements, no green light yet for funding for the Oct meeting. FHWA will go as far as it can pending a CR from Congress;
  - o Reiterated that the November meeting would take place the week of November 15 at BIA Training Center in ABQ and that the December meeting would take place the week of December 6<sup>th</sup> in Atmore, AL;
  - o Opened the discussions on meeting locations and dates for the subsequent months. After discussion, it was agreed to look at January 10-12 in Southern California and the week of February 7-9 in Phoenix. Mr. Hostler requested that he would like to host in northern CA either Sacramento or north by the Tribe, possibly in March. Mr. Sparrow also indicated that the Lummi Tribe would also like to host in the future. However, total costs need to be reviewed and approved before any site is approved; and
  - o Stated that a Draft Agenda for the next meeting will be developed and posted.

2:30 pm - Closing comments.

- Mr. Sparrow thanked all for operating as a team and beginning to have deliverables.
- Co-Chair Rhoads reiterated that alternates now have been identified for each region. Ms. Clark added the importance of getting the information out to everyone who couldn't make

it, especially the next meeting dates and logistics. Ms. Rhoads also added that any comments from the committee on the workgroups be sent directly to the work group chairs (Ms. Michel and Ms. Clark).

- Mr. Hope asked about the DOI Self-Governance workgroup meeting and if a paragraph could be forwarded from each workgroup so he can share at the meeting. Mr. Sparrow will also be attending this meeting as well as NTTC.
- Ms. Andrus stated that a session on drones will be delivered by FAA at NTTC. Also re-offered that she can ask an FAA rep to come to a future committee meeting.
- Messrs. Hope and Mermelstein shared information on a scholarship fund that has been started in honor of Julie Baltar.
- Mr. Garcia thanked everyone once again stating that he was happy with the camaraderie.

3:00 pm – Closing prayer was given and Meeting was adjourned.