

Successes **in** Stewardship

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Improving Project Delivery and Planning Through Outreach and Guidance to Tribes

The United States government has unique, government-to-government relationships with federally recognized Tribes as domestic dependent sovereign nations. The Tribes have close connections to their ancestral homelands and to historical and cultural resources, both on and off of Tribal lands. Tribes manage the planning, design, and construction of the transportation infrastructure on their lands and play an important role in the planning and design of State and federally owned transportation infrastructure that impacts Tribes or Tribal resources. The Federal Highway Administration (FHWA) and Tribes work jointly to improve the planning, design, and construction of transportation systems located within Tribal lands or affecting Tribes and their resources.

In November 2009, the White House issued a Memorandum on Tribal Consultation, reaffirming the unique legal and political relationship between Federal executive departments and agencies and Tribes established through Executive Order 13175 in November 2000. In October 2010, the U.S. Department of Transportation (USDOT) demonstrated a renewed commitment to improving existing Tribal transportation infrastructure through publication of the [Tribal Consultation Plan](#). The plan outlines USDOT's efforts to foster and facilitate positive government-to-government relationships between itself and all federally recognized Tribes. FHWA works closely with Tribes and Tribal leaders within the context of the plan to provide technical assistance about transportation planning and project development and to address concerns about issues such as safety, access, and environmental stewardship in relation to transportation programs and projects.

Advancing FHWA's Work with Tribes

Since enactment of the Intermodal Surface Transportation Efficiency Act of 1991, FHWA has increased its work with Tribes with regard to transportation projects that affect Tribal lands. Along with surface-transportation legislation, jurisdiction for several FHWA offices to enhance and expand their relationships with Tribes is provided by the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and Title 23 of the U.S. Code (Highways). The following FHWA offices work with Tribes on transportation issues:

- FHWA's [Office of Project Development and Environmental Review](#) supports Division Offices in identifying and working with Tribes under NEPA and Section 106 of NHPA for consultation, coordination, and program and project development. FHWA recognizes Tribes' special concerns related to cultural and natural resources, including archaeological sites, throughout the project-development process. FHWA also provides guidance to Tribal governments on project-development issues and helps Division Offices to establish programmatic agreements with Tribes to carry out the Section 106 process.
- FHWA's [Office of Planning](#) offers support and information tools directly to Tribal governments, showing how they can better navigate the Federal transportation-planning process. FHWA also provides stewardship and oversight to Division Offices for Tribal planning assistance and helps State Departments of Transportation (DOTs) and Metropolitan Planning Organizations (MPOs) improve outreach to Tribes. Finally, FHWA developed the [Module Training Series](#) for Tribal governments, which highlights eight topics related to planning for transportation capital, operating, and maintenance needs on Tribal lands.
- The Office of Federal Lands Highway (FLH) administers the [Indian Reservation Roads/Bridges](#) (IRR) program in conjunction with the Bureau of Indian Affairs (BIA). The IRR program gives direct financial assistance to Tribes for the planning, design, construction, and maintenance activities of roads that provide access to or within Tribal reservations, Tribal trust land, restricted Tribal land, and Alaska native villages. With enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users in 2005, eligible Tribes can enter into



North Dakota DOT (NDDOT), FHWA, and Tribal representatives confer at a Tribal Consultation Committee meeting. (Courtesy of NDDOT)

IRR program agreements directly with FHWA instead of going through BIA. FLH developed the IRR Program Delivery Guide (available on the [IRR website](#)) in 2010 to serve as a reference on administration of the program for Tribes that have programmatic agreements with FHWA. FLH also works with the FHWA Offices of Safety and Policy on a series of Tribal safety initiatives and supports seven Indian Tribal Technical Assistance Program (TTAP) centers, jointly funded by BIA.

- In addition to these FHWA offices, the [Office of Policy and Government Affairs](#), the [Office of Safety](#), and the Resource Center's [Environment](#) and [Planning](#) teams work with Tribes on technical assistance activities to improve Tribal transportation.

Division Office Outreach Initiatives

With the support of FHWA Headquarters staff, several Division Offices have made exemplary efforts to develop or strengthen relationships with Tribes. These examples can inspire other States to improve their Tribal outreach in similar ways.



The collaborative efforts of NDDOT, FHWA, and the respective Tribes are documented in several educational products. (Courtesy of FHWA)

North Dakota

Over the past decade, the FHWA North Dakota Division Office, North Dakota DOT (NDDOT), and 11 Tribes with ancestral ties to the State have been fostering relationships that led to development of the Section 106 Programmatic Agreement (PA) for Tribal Consultation in North Dakota, executed in November 2006. The PA identifies effective consultation protocols and supports the joint commitment of FHWA, NDDOT, and Tribes to sustain a relationship of mutual trust, respect, and open communication. The PA also established the Tribal Consultation Committee (TCC), consisting of Tribal, NDDOT, and FHWA representatives. Working through the TCC rather than with individual Tribes allows for more effective cultural resource management, reduces time demands for participants, and promotes efficient project delivery. The development and implementation of the PA are documented in the case study [In Their Own Light](#) and in the companion video of the same name, which NDDOT recently produced.

Pennsylvania

The Pennsylvania DOT (PennDOT) and FHWA's Pennsylvania Division Office held an Intertribal summit in 2003 to improve communication and consultation among Tribal, State, and Federal participants. As a result of the summit, PennDOT and Division Office staff traveled to Wisconsin and Oklahoma to meet with representatives of seven federally recognized Tribes residing in those States that have ancestral ties to Pennsylvania. During these meetings, participants discussed ways to improve consultation, learn about Tribal needs, and develop procedures for Tribal consultation. The meetings led to signed Memorandums of Understanding, outlining how PennDOT would consult with each out-of-State Tribe on transportation projects in Pennsylvania.

Texas

Over the past decade, the Texas DOT (TxDOT) and FHWA's Texas Division Office have demonstrated leadership in working with Tribes residing in Texas and many out-of-State Tribes that have traditional ties to lands and natural resources in Texas. Through one-on-one outreach with Tribes, TxDOT and Division Office staff have developed approximately 15 formal agreements that specify how consultation would occur. Several of these agreements have been in place for five to ten years. As part of the agreements and as a demonstration of the trust that they share with Tribes, TxDOT and Division Office staff visit the Tribes semiannually.

National Tribal Conference Features Peer Exchange and Planning Tool

In November 2010, the Transportation Planning Capacity Building Program, a joint venture between FHWA and the Federal Transit Administration, sponsored the State Department of Transportation Tribal Liaison Roundtable and Panel Discussion. This day-long peer exchange, held in conjunction with the 13th Annual National Tribal Transportation Conference in Albuquerque, brought together Tribal liaisons from seven State DOTs to discuss effective Tribal transportation practices related to safety, project development, and outreach in a variety of Tribal efforts. Participants appreciated the opportunity to meet other Tribal liaisons and FHWA staff and to share challenges, successes, and lessons learned.

The Tribal liaisons who attended the conference also gained new insight on working with Tribes through playing the [Reservation Road Planner Game](#), developed jointly by Lummi Nation and the BIA Northwest Region. The purpose of the game is to explain how transportation is planned, financed, and developed. Tribal liaisons found the game to be an enjoyable and creative way of understanding the transportation-planning process.

Gaining Understanding Through FLH Safety Summits

FLH addresses Tribal safety concerns by sponsoring Tribal safety summits across the United States. Through these summits, FLH brings together leaders from all interested Tribes in a State, as well as State and Federal transportation staff, to discuss and address safety issues on Tribal lands. Participants gain a better understanding of specific Tribal safety

concerns, identify solutions to address them, and share successful safety efforts. The summits are a way for partners to build long-term relationships and to work collaboratively on the four main aspects of safety: engineering, education, enforcement, and emergency-management services. FLH plans to hold safety summits in California and Montana in 2011. For more information on FLH's Tribal safety initiatives, visit the [FLH Tribal Safety website](#).

Insights for Transportation Officials Working with Tribes

The initiatives highlighted in this issue of *Successes in Stewardship* represent a small selection of FHWA's recent work with Tribes on transportation issues. FHWA Division Offices and State DOTs and MPOs are becoming more aware of the concerns of Tribes and are more proactive in their outreach. Similarly, with support from FHWA and enabling Federal regulations, Tribal governments have become more actively engaged in the transportation-planning and project-development processes.

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By sharing strong relationships, often developed through dedicated trust-building efforts, transportation agencies and Tribal leaders have greater success in jointly navigating the transportation process. These relationships help transportation agencies to understand and respect the unique perspective of Tribes in terms of preserving cultural and natural resources and Tribal sovereignty while enabling FHWA and State DOTs to avoid conflicts and streamline the transportation-delivery process.

Look What's New!

- FHWA will host a webinar featuring presentations about using the *Eco-Logical* approach to identify and implement mitigation opportunities on Wednesday, March 16, 2011, from 2 to 3:30 p.m. The intended audience will include Federal, State, and local transportation and resource agencies as well as nongovernmental organizations involved in mitigation programs. Additional details and registration information will be available on the [Eco-Logical website](#).
- The Western Transportation Institute at Montana State University and the Woodcock Foundation announced the winner of the ARC International Wildlife Crossing Infrastructure Design Competition at the Transportation Research Board's 90th Annual Meeting in Washington, DC, on January 23, 2011. The competition solicited designs for a next-generation wildlife crossing structure over the West Vail Pass on Interstate 70 in Colorado. The winning design, submitted by HNTB with Michael Van Valkenburgh and Associates, was a modular, cost-effective structure with a built-in drainage system. More information on the designs is available on the [ARC website](#).

Successes in Stewardship is a Federal Highway Administration newsletter highlighting current environmental streamlining and stewardship practices from around the country. To subscribe, visit http://environment.fhwa.dot.gov/sis_registration/Register.aspx or call 617-494-2273.