



2014 New York and Pennsylvania Tribal and Nation Summit/Peer Exchange
May 28, 29, 30, 2014
East Syracuse, NY
Moderated by Deborah Suciu Smith and Stephanie Stoermer, FHWA Resource Center
Meeting Summary

Participants:

Susan Bachor – Delaware Tribe of Indians	Krystin Husz – DOD, Fort Drum
Blair Fink – Delaware Tribe of Indians	Tarrie Ostrofsky – ACOE (Baltimore)
Jesse Bergevin – Oneida Indian Nation	Mike Drombroske – ACOE (Baltimore)
Tony Gonyea – Onondaga Nation	Christine Delorier – ACOE (NY)
Wendy Gonyea – Onondaga Nation	Robert Romeo – NYS Thruway Authority
Steve Thomas - Onondaga Nation	Shelah LaDuc – NYSDOT
Arnold Printup – Saint Regis Mohawk Tribe	Joanne DiStefano – NYSDOT
Jay Toth – Seneca Nation of Indians	Ruth Hart – NYSDOT
Aiyana Williams – Shinnecock Indian Nation	Karen Missell – NYSDOT
Bonney Hartley – Stockbridge-Munsee Band of Mohican Indians	Andrea Becker – NYSDOT
Sherry White – Stockbridge-Munsee Band of Mohican Indians	Stephanie Delano – NYSDOT
Christine Abrams – Tonawanda Seneca Nation	Michele Bager – NYSDOT
Bryan Printup – Tuscarora Nation	Kristy Primeau – NYSDOT
Jon McDade – FHWA NY	Pamela Grupp – NYSDOT
Tricia Millington – FHWA NY	Andy Brayman – NYSDOT
Chris Gatchell – FHWA NY	Jess Andersen – NYSDOT
Anna Price – FHWA NY	Peter Dunleavy – NYSDOT
John Nickelson – FHWA NY	John Greene – NYSDOT
Hans Anker - FHWA NY	Rene Gravelle – NYSDOT
Ian Weibel – FHWA NY	Jim Darlington – NYSDOT
Michael Kowalczyk – FHWA NY	John Bonafide – NY SHPO
Enos Han – FHWA NY	Nancy Herter – NY SHPO
Keith Lynch – FHWA PA	Mike Schifferli – NY SHPO
Barbara Shaffer – FHWA PA	Scott Shaffer – PennDOT
Kevin Rose – FHWA Eastern Federal Lands	Ira Beckerman – PennDOT
Jaime Sikora – FHWA NH	Mike Stanilla – PennDOT
Laurie Rush – DOD, Fort Drum	Steve McDougal – PA SHPO
	Jill Edelmann – NHDOT
	Edna Feighner – NH SHPO

(FHWA: Federal Highway Administration; DOD: Department of Defense; ACOE: United States Army Corps of Engineers; NYS Thruway Authority: New York State Thruway Authority; NYSDOT: New York State Department of Transportation; NY SHPO: New York State Historic Preservation Officer; PennDOT: Pennsylvania Department of Transportation; PA SHPO: Pennsylvania State Historic Preservation Officer;

NHDOT: New Hampshire Department of Transportation; NH SHPO: New Hampshire State Historic Preservation Officer)

The agenda was developed in consultation with the tribes and is attached. The meeting was managed to generally reflect the agenda but respect the need to extend beyond the identified points. Ample opportunities for discussions were held throughout the course of the gathering with questions and answers during and after all presentations and generous breaks.

Day 1: May 28

1. Expectations

All attendees introduced themselves. During the introductions, all were asked to briefly describe what expectations he or she had for the Summit. Expectations were duly noted on flipcharts for reference throughout the gathering. Expectations ranged from participants hoping to build stronger relationships to learning about the Section 106 process to ensuring that the correct contact information for FHWA and the DOTs is made available.

2. Consultation

Deborah asked the Tribes and Nations to give examples of what they considered to **NOT** be consultation. Numerous examples were given of concerns that the Tribes and Nations have about how communication is currently being or has been conducted in the past. The examples generally fell into several categories:

- DOT not respecting the sovereignty of the Tribes and Nations; treating them as though they are the general public.
- Contacting the Tribes and Nations too late in the project development process, after studies have already been undertaken and decisions about alternatives have already been made.
- Agencies asking permission for ground disturbance
- Agencies placing more emphasis on SHPO opinion than on Tribal opinions
- Not following up with consultation after initial contact.
- Not giving the Tribes and Nations enough time to respond.
- Issues with the consultant archaeologists.
- Prioritizing cost over other concerns; dollar value placed on culture and history
- Not taking the opinions of the Tribes and Nations seriously into consideration (“illusion of consultation” “send a letter, hear you out, process is done”)

Dr. Laurie Rush, an archaeologist with the Department of Defense at Fort Drum in NY discussed the procedure used by Fort Drum when seeking to consult with the Tribes and Nations. She emphasized setting the tone, face-to-face meetings, and following Head of State protocols when meeting with the Tribes and Nations. This emphasizes that the relationship is a partnership. In addition, they meet with the Tribes and Nations regularly, even when there are no projects, so that when they do need to consult about a particularly complicated or difficult project, a mutual trust has already been developed.

3. Section 106 Essentials Training

Deborah and Stephanie led a half-day overview of the Section 106 of the National Historic Preservation Act. They briefly discussed the regulations, philosophy, the participants and their roles and

responsibilities in the Section 106 process. They included a discussion of other laws, regulations, and Executive Orders relating to Tribal Consultation.

The overview then went through the steps in the Section 106 process, including 1) initiating the process, 2) identifying historic properties, 3) assessing effects, 4) resolving adverse effects, and particularly - meaningful consultation. Deborah and Stephanie emphasized that good consultation results in better decisions, collecting and sharing data, improved relationships, and reduced controversy.

Day 2: May 29

1. Consultation with Multiple Nations: Presentation by Jesse Bergevin, Oneida Nation, and Jim Darlington, NYSDOT

Jesse and Jim talked about consultation techniques that are successful and ensure that Tribal viewpoints are taken into account. These include initiating consultation early, and open, honest, and transparent communications. They also noted that due to staffing issues and tribal governmental structures, 30 days is often not a reasonable review period for the Tribes and Nations; 45-60 is often more appropriate.

2. Traditional Cultural Properties: Presentation by Joy Toth, Seneca Nation of Indians

Jay discussed the difficulty that the DOTs often face when attempting to evaluate Traditional Cultural Properties (TCPs) and assessing the effects of projects on them. To effectively assess TCPs, Jay recommends that archaeologists stop compartmentalizing the archaeological components from the larger setting and treat the overall property as one entity. He also pointed out that archaeologists and other cultural resources professionals are assessing Tribal and Nation resources from a Eurocentric perspective and that only the Tribal representatives can provide contextual background.

3. Consultation

Based in part on the mornings discussion, a general conversation on effective consultation was undertaken, using the previous day's session on what is NOT consultation as a starting point. A common thread was seen for examples given by Tribal representatives where successful consultation includes:

- treating the Tribes and Nations respectfully and
- acknowledging them as sovereign governments,
- initiating consultation early in the process and
- continuing regular communications throughout the process (not "once and done"),
- consulting in good faith by taking the concerns of the Tribes and Nations seriously.

4. PennDOT Project PATH: Presentation by Mike Stanilla, PennDOT representative

Mike gave a brief presentation on PennDOT's Section 106 public involvement site, [Project PATH](#). All Section 106 submissions are posted to the website, and the consulting parties for the project are sent emails informing them of the availability of the submission. Comments from all parties are also posted on Project PATH and can be viewed by all other parties. In addition, anyone from the general public can view and comment on the submissions.

5. NY SHPO Cultural Resource Information System (GIS): Presentation by Mike Schifferli, NY SHPO

Mike discussed the NY SHPO's GIS system, which is scheduled to be launched on September 1, 2014. All submissions from all agencies will be made on the electronic system, which will also be used internally by the SHPO to track the submissions and responses.

6. GIS Programs: Tricia Millington, FHWA NY

Tricia generally discussed the utility of GIS programs and how they can streamline the consultation process as well as make information available to all parties.

7. NYS Maps: Tricia Millington, FHWA NY

Tricia explained that FHWA NY Division has maps that depict which Tribes and Nations are interested in each area, but that the maps should be updated. Sometimes it is difficult for FHWA to determine where exactly the boundary for an area of interest for a particular Tribe or Nation is because of the scale of the maps. Tricia said that she would like to provide the Tribes and Nations with large scale maps and asked them if they would be willing to delineate their areas of interest on the maps.

Day 3: May 30

1. Transportation Planning

A discussion of transportation planning, the role of the Metropolitan Planning Organizations (MPOs) in the Transportation Improvement Program (TIP) process, and consultation of the MPOs with the Tribes and Nations was undertaken. It was clear that the process through which MPOs are supposed to consult with the Tribes and Nations was not well understood by the majority of the Summit participants, whether they were members of a Tribe or Nation or federal or government employees. Deborah noted that planning is separate from Section 106 process and the consultation requirements are different than the requirements under Section 106. Transportation planning regulations are under the Code of Federal Regulations for Highways. It was generally agreed that there should be some follow-ups on this topic, and that training for Tribes and Nations, state DOT staff, FHWA staff, and MPOs might be helpful.

2. Maintenance on Tribal Lands

Some of the Tribal and Nation members indicated that maintenance is sometimes conducted on Tribal lands without consultation with the Tribe or Nation. Significant resources are sometimes impacted without the Tribe or Nation even being aware that a project is proposed in an area. There was some agreement that consultation regarding maintenance activities on Tribal Lands needs further discussion. There was a commitment to follow up on NYSDOT policies and practices. This issue pertains to New York, since Pennsylvania does not have any Tribal lands.

3. Follow-up Actions

Several members of the Tribes and Nations indicated that they thought that the Summit was extremely worthwhile. Numerous suggestions for follow-up items were given by the Tribes and Nations.

- Emphasize Government-to-Government consultation, Head of State protocols.
- Transportation Planning – providing contact information and education on the process.
- Notification of maintenance activities on Tribal lands to Tribes and Nations.
- Suggestion for a similar summit on an annual or more regular basis, perhaps with a Tribal Caucus as a component of the meeting; include other states and Tribes and Nations if possible.
- Suggestion for annual meetings with each individual Tribe and Nation.
- Ensure updated contact information for each FHWA Division and DOT are provided to the Tribes and Nations.
- Update NYSDOT's maps depicting areas for which each Tribe and Nation are interested.
- Emphasis on openness, honesty, understanding of issues, different perspectives, encourage new ideas
- Importance of face-to-face meetings

The meeting concluded with a round room expression from all participants of what they are taking back from the meeting. General feedback was positive with commitments for change.

