



**Wisconsin DOT Inter-Tribal Task Force (WisDOT ITTF),
PARTNERSHIP AGREEMENT REVISION MEETING NOTES
Holiday Inn – Stevens Point
June 21, 2017**

WisDOT ITTF PURPOSE STATEMENT

- *Review and provide consultation to the Secretary of the Wisconsin Department of Transportation (WisDOT) and tribal leaders on short and long-term transportation policies and priorities that have the potential to impact tribal transportation systems and communities.*
- *Evaluate the results and effectiveness of transportation policies and priorities upon tribal transportation systems and communities.*
- *Review and make recommendations to agency administration and elected tribal leaders.*

Teleconference line: (646) 749+3112

Access Code: 995-041-229

Join Meeting: <https://global.gotomeeting.com/join/995041229>

Present: Samantha Skenandore (facilitator), Todd Mulvey, Brett Blackdeer, Cyless Peterson, Rusty Barber, Kelly Jackson, Arvina Martin, Brent Pickard, WisDOT Regional Liaison, Sandy Stankevich, Derek Weyer, Travis Wallenfang, Kim Swisher, Agnes Fleming, Ian C.

8:30 – 9:00 am - Breakfast

9:00 am

- I. Review notes from April 12, 2017 meeting and follow up points are highlighted in yellow.
 - Samantha Skenandore facilitated an in-depth review of the April 12, 2017 meeting notes, including outstanding tasks and updates of the same, as well as a review of the draft edits made to the draft 2017 Partnership Agreement.
 - Samantha reported on suggested edits in the draft 2017 PA that includes more consistent language, insertion of declarations founding the agreement, modern terminology, references to the USDOT Tribal Consultation Policy and revised glossary. Most edits were derived from the USDOT Tribal Consultation Policy. **We are in need of submissions by partners/signatories of illustrative case or project successes from both the 2005 and 2010 Partnership Agreements for inclusion in the declarations.**
 - Samantha reported that she hosted a teleconference with Seth Bichler, Attorney for the Fon du Lac Band, regarding whether the Band had property in Wisconsin. Attorney Bichler stated that individual tribal members hold title to trust allotments near Solon Springs (Douglas County); the Band owns land currently held in fee and the tribe is about to file a trust application for that land; and the Band holds legal title to usufructory rights (hunting, fishing and gathering) similar to the Mille Lacs band and other Chippewa bands for approximately 1/3 portion of the state of Wisconsin. **ITTF staff will follow up with the Band on involvement with the PA revisions.**
 - Samantha reported that no tribes submitted position statements on transportation-related issues. **If any partners/signatories or tribes wish to submit position statements on the same, they can be submitted to Samantha or ITTF staff for review at the next Partnership Revisions Committee meeting.**

- Todd Kennedy was not available to provide an update regarding the FHWA's position on the ability of the agency to be a signatory on the new PA based on legal review and budgetary obligation concerns.
- Rusty Barber noted that in our earlier agreements, the BIA was left out of the PA revisions process and now they are included. We see that this process plays a significant role in these relationships/partnerships. There is a value to this and in the end, all parties are benefitting from it and seeing results.
- Kelly has a draft of the regional tribal liaisons roles and responsibilities for review and discussion for anybody that may be interested – contact Kelly directly.
- Kelly: Listing of emphasis areas is critical to guiding and directing the WisDOT programs, particularly funding for each area.
- Rusty: When we come together for these areas, it is helpful to have WisDOT support and funding to deal with other emphasis areas and agencies. Likewise, the WisDOT can promote their achievements with other non-tribal agencies. If each state department worked with their tribal liaisons and used our Agreement for a model to achieve results, that would go a long way. This is a nationally-recognized document. That means something – it is working.
- Travis: There are other agreements from other states for reference and might help us identify helpful provisions. Right now there are some 9 different states involved in something like this.
- Rusty: Other states may not even realize this progress is taking place. We are paving the way for the other state departments in some ways.
- Kelly: We have a bi-monthly meeting with other state departmental liaisons and provide reports. The Governor required that each agency submit annual accomplishments reports with tribal relations in each agency. WisDOT does compile this but unsure where the reports go. At one time, Governor shared these reports (engagement reports of when a state department met with a tribe). This showcased the value of fortified relationships. Also, other state agencies may not be as funded as the WisDOT. We have established specific pots of funding to enhance tribal relationships. This might be a good conversation for the July 11th consultation to recognize the value of peer exchange about what works and what does not.

II. Emphasis Areas

Labor

- Kelly: We are working on our ability to delete the note on limitations of adhering to tribal laws concerning labor. The ITTF is continuing to look at this.
- Samantha: This issue is currently a big issue. We have authority under the Indian Self Determination Act to follow Indian labor preference codes when they exist, however, federal agencies backtrack and may opt only to follow them to the extent they do not conflict with other federal laws, i.e., federal procurement law.
- Todd: Proposes to strike “to extent applicable”.
- Travis: We should have the ability to make these decisions to follow labor codes because it affects the tribal community directly.
- Kelly: There is only one tribe that has included tribal preference in cost-share situations due to agreements with counties (Ho-Chunk).
- Kelly: This is the section/language that was not acceptable to Bad River.
- Rusty: This language does not extinguish sovereignty.
- Kelly: We have a lot of programs, tasks and funding to work towards these labor goals. We need to preserve them. There is overlap with the work by TLAC (Tribal

Labor Advisory Committee). We do not use ITTF as a consulting body (which would be needed for compliance with tribal codes), therefore, we would still need to consult directly with tribes.

Cultural Resources

- Ian: WisDOT shall include the Eleven tribes in consultation with any updates or modifications to the FDM related to cultural resources. Include responsibilities under NEPA/environmental. Consultation obligations under this Agreement shall not disturb or replace any federal agency consultation efforts and obligations with tribes directly.
- Kelly: We do not want the Agreement to replace the federal agency-tribal consultation process/obligations. We can expand cultural resources to include environmental.

Municipal Relationships

- Participants agreed to add new section from Wish List #11 and 24 entitled: Building Municipal Relationships.

Getting Support for 2017 Partnership Agreement

- Kelly: RE gaining buy in from partners. In past, WisDOT sent out draft of Agreement and solicited tribal input. Comments were incorporated and an event to present the draft took place before Kelly and Danielle went out to meet individually with non-signatory tribes to address shortcomings. Finally, a formal signing ceremony took place. For this Agreement, we need to elevate the conversation at this point since we are close to finishing a draft.
- Rusty: We can use the Great Lakes Inter-Tribal Council to assist in gaining buy in. We need to be careful about too much briefing and focus on narrow action items. Chris McGeshick is the current Board Chairman for GLITC.
- Kelly: This could be on the GLITC agenda for review to help encourage signage.

III. Guiding Principals

- a. The group began to explore the new USDOT Consultation Plan principles and previously included principles. **The group will review these and provide input at the August 9, 2017 next meeting.**

IV. Dispute Resolution Form

- a. Kelly prepared a draft DR form. This can be made available online and in several different formats. **The group made revisions to the draft form. Samantha will incorporate the elevated level of dispute resolution from Steps 3 and 4 from Addendum 2 from the 2010 Agreement.** We will also include a disclaimer that does not infringe on tribal rights from seeking other relief and avenues.

[THE GROUP CONCLUDED WORK ON AGENDA ITEMS]

V. Consultation

VI. Review Benefits

VII. Next steps – Wrap up

- a. For the next meeting:
 - i. Review of Revisions to 2017 Partnership Agreement and Notes from June 21, 2017 Revisions Committee meeting

- ii. Guiding Principals
 - iii. Final Steps 3-5 for Dispute Resolution and Form
 - iv. Consultation
 - v. Review Benefits
 - vi. Input on Gaining Review and Agreement
- b. Agnes Fleming will send a "SAVE THE DATE" to the group and expand to THPOs, Legal Staff, Tribal Representatives on TLAC and ITTF, tribal roads, tribal planners, BIA archaeology, and tribal leadership for the next meeting.
- c. NEXT MEETING: August 9, 2017 at the Grand Lodge in Schofield, WI.**

Meeting adjourned: 3:12 p.m.

Material/Documents Needed

1. Notes from the April 12, 2017 and June 21, 2017 meeting
2. Redline and Clean Copy of revised 2017 Partnership Agreement (after June 21, 2017 revisions)
3. Relevant legal opinions/positions/summaries or statements
4. Draft Dispute Resolution Form