Land Acknowledgement
Webinar Logistics

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Panelists

Margo Hill
- Spokane Tribal Citizen
- Associate Professor, Eastern Washington University Urban Planning
- Small Urban Rural and Tribal Center on Mobility (SURTCOM) Associate Director

Richard Rolland
- President, Rolland Associates
- Planning Services, Research, Training & Technical Assistance
- Focused on Small Rural & Tribal Communities

Moderator
Alex Hudson
Executive Director
Transportation Choices Coalition
A Brief History of Tribal Transportation
The General Allotment Act of 1887 initiated a series of rights of way statutes. As tribal lands were declared surplus and open to homesteading, these “excess” lands were acquired by settlers.

As settlers began to develop these prime lands, they needed utilities. Exercising its new-found plenary powers, Congress enacted a series of laws in the early 20th Century that delegated authority to the Secretary of the Interior to grant rights of way without landowner consent.
Pipelines, telegraphs and highways

The act of March 3, 1901, authorized the Secretary to grant permission to the proper State or local authority for the establishment of public highways through any Indian reservation or through restricted Indian lands which had been allotted in severalty to any individual Indian under any law or treaty. The conveyance contemplated in this act is one to a public body and not to a private interest. The act of March 2, 1899, authorized the Secretary to grant rights-of-way for railway, telegraph, and telephone lines, and townsite stations. It was required that the Secretary approve the surveys and maps of the line of route of the railroad and that compensation be made to each occupant or allottee for all property taken or damage done to his land, claim, or improvement, by reason of the construction of such railroad. In the absence of amicable settlement with any such occupant or allottee, the Secretary was empowered to appoint three disinterested referees to determine the compensation. An aggrieved party was permitted judicial review. The Secretary was also authorized to grant a right-of-way in the nature of an easement for the construction of telephone and telegraph lines; to acquire lands for reservoirs or material for railroads and rights-of-way for pipelines.
Muckleshoot Area Vicinity Map

Directions from I-5 & I-90 to the Muckleshoot Tribal Campus:

1. From I-5, go east on Highway 18 for 4.5 miles.
2. From I-90, take exit 25 toward Auburn/Tacoma for 24 miles.
3. Exit for Auburn Way and Enumclaw.
4. Make a left at the traffic light at the bottom of the ramp. (Denny’s and gas station are across the intersection.)
5. You are now on Highway 164 heading to Enumclaw. You will pass the following:
   - Casino, Bingo (on left)
   - Adventist Academy (on left)
   - Crosswalk (yellow blinking lights)
   - Cooper’s Corner
6. Turn left on 322nd Ave at the “Muckleshoot Tribal Offices” sign. (left turn lane, crosswalk and stop light.)
7. Take the 1st left at the 17000 Muckleshoot Tribal sign.
Other Significant Points in History

1928 Creation of the Indian Reservation Roads (IRR) program (Snyder Act)

1991 Passage of the Intermodal Surface Transportation Efficiency Act (ISTEA); creates Transportation Enhancements and authorizes creation of the Indian Local Technical Assistance Program (now known as TTAP); also creates set-aside for Indian reservation bridges. Funding increases from $86 mil to $191mil for IRR

2005 Passage of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); includes creation of Tribal Transit Grants under Section 5311(c) through FTA.
Progress in Tribal Transportation Funding

- **ISTEA:**
  - IRR Program authorized funding: $191 million 2% Tribal Planning set-a-side

- **TEA-21:**
  - IRR Program authorized funding: $275 million (with $13 million for IRR Bridge Program as set aside)

- **SAFETEA-LU:**
  - IRR program authorized funding: $300 - $450 million (with $30-40 million obligation limitation deduction)
  - IRR Bridge Program: $14 million
  - Tribal Transit Grant Program: $8 - $15 million
  - DOI Tribal highway safety grants: 2% set aside
Progress in Tribal Transportation Funding

- **MAP-21:**
  - Tribal Transportation Program $450 M (no obligation limitation deduction = over $30 million increase) (statutory formula locking in 2011 inventory. Tribal population, road mileage & average tribal shares from SAFETEA-LU)
  - Tribal Transit Grant Program $30 M
  - Tribal highway safety grants 2% set aside

- **FAST ACT:**
  - Tribal Transportation Program $505 M
  - Tribal Transit Grant Program $35 M
The Intertribal Transportation Association (ITA), the National Congress of American Indians (NCAI) Regional Tribal Organizations such as Affiliated Tribes of Northwest Indians (ATNI) and individual Tribes are working closely with members of congress and others to assure a positive outcome for Tribes in the next Surface Transportation Bill.
Primary Funding for Tribal Transportation & Traffic Safety

**Tribal Transportation Program** – Contracts to tribes via Federal Lands Highway TTP or Bureau of Indian Affairs Division of Transportation. BIA maintains inventory and related formula distribution data, FLH has primary oversight. Set-a-sides for Admin, Planning, Safety, Bridges, TSF*.

**BIA Road Maintenance Program** Bureau of Indian Affairs – (funded from Interior budget, not HTF)


**Tribal Transit Program** – Federal Transit Administration 5311c

**State Administered Programs** – Federal Aid, Transit, Traffic Safety

**Other Federal Programs** – Nationally Significant Federal Lands and Tribal Projects and Better Utilizing Investments to Leverage Development (BUILD)
Transportation Coalition
Choices

Tribal Transportation in Washington State
What are the challenges for Pedestrian Safety in Indian Country

• What is Indian Country?
• What are the unique land tenure issues?
• Fee & Trust = Checkerboard
• Who is responsible for pedestrian safety?
• Many tribes do not have funding/engineers
Many Indian reservations have state highways.

Colville Indian Reservation, WA
Washington state routes 97 (US 97), 17, 21
Federal Indian Law

• Very Complex area of the law
• What happens to one tribe – affects other tribes across the nation
• Bad facts create bad case law
• Statutory Construction: Facts and Law are suppose to read in favor of tribes because they were at a disadvantage (language and bargaining).
Tribal History

- Every Tribe is different
- Some were established by treaty (bilateral agreement between government and tribe).
- Some established by Executive Order (unilateral agreement from government to tribe).
- Need to know words of treaty and tribe’s history for land use.
Indian Country Defined

18 U.S.C.A. § 1151: Indian Country means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities (Pueblos) within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of the state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
3 Separate Sovereigns: Layers

- Spokane Tribal Government
  Tribal Laws, Tribal Court, BIA Police
- Federal Laws: Major Crimes Act
  U.S. Dist. Ct. Eastern District of Washington, FBI
- Stevens County:
  State Laws
  Stevens County Court, Sheriff
Types of Land Holdings

• Fee: Fee Simple Absolute. You have full title with no encumbrance (clear title, no rights-of-way). Taxed by government.
• Trust: Held by the United States Government for Tribe or Individual Indian.
• Checker Boarded Nature of Reservations
• Every land use question the answer will depend on who owns title.
Problems Caused by Checker Board Pattern.

- Jurisdictional Problems
- Criminal Law – Domestic Violence
  No JX over non-Indians
- Civil Law
  Montana Test- Consensual Relations
- Environmental Problems
- Zoning Problems
Figure 5. Jurisdiction is a complex issue and a source of inherent sovereignty to tribal nations. Each tribal nation's circumstances is in large part unique. When discussing jurisdiction the state of legislation, case law, and the specific circumstances of each offense often creates uncertainties.

Some Tools for Intergovernmental Working Relationships:
- Intergovernmental Cooperative Agreements
  (Regulatory, administrative, or judicial clarity)
- Cross-Deputization Agreements
  (Law Enforcement)
- MOU/MOAs
  (ex. EMS/Fire services)

Nested Venn diagram adapted from: Right-of-Ways over Tribal Lands
18th Annual Northwest Tribal Transportation Symposium, Raquel "Kelly" Myers, Staff Attorney for the National Indian Justice Center, California/Nevada TTAP.
DUI SERIES: Sydney Matheson, Miss CCT, tells her story of a drinking related accident on the Colville Reservation – and how that accident has put her dreams into question. READ MORE!
Traffic Safety Projects
Today EWU Senior Capstone Planning Studio presented a Tribal Traffic Safety project to the Colville Tribal Council. Students conducted a Traffic Safety survey and focus groups in all four districts.
New Innovations/ Ideas?

- **Department of Transportation** – Tribal Self-Governance Program
- **Coordinating Council on Access and Mobility Cost-Sharing Policy Statement** Federal fund braiding for local match allows grant recipients to use funds from one federal program to meet the match requirements of another. Tribes accomplished this through Public Law 102-477 the Indian Employment, Training, and Related Services Demonstration Act of 1992. Allowed One Plan, One Budget One report for BIA, IHS, & DOL programs.
  - **Tribal Transportation Program funds can match** FHWA/FTA and other federal program funds.
- **Coordinate with Urban Indian Programs** – United Indians of All Nations (Seattle) American Indian Community Center (Spokane)
- **Transportation Choices Coalition Coordinate** with Tribal Transportation Planning Organization (especially Transit Committee)
THANK YOU!

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