The Ties That Bind

Tribal Consultation in Pennsylvania

Deborah Suciu Smith - Catherine Spohn
Legal Responsibilities

- Constitution
- Treaties
- Laws
- Regulations
Initiating Consultation

- FHWA initiated consultation with Federally Recognized Tribes in 1999 by telephone.
- Phone conversations followed by letter from Division Administrator formally introducing our office and acknowledging our responsibilities.
- Additional discussions, meetings and letters established the role of PennDOT Cultural Resource Professionals.
Challenges to Effective Consultation

- Distance and Time
- Trust
- Magnitude of the Federal-Aid program in Pennsylvania
- Breaking established consultation protocol
- The Federal-Aid planning process
- Limited human resources in Tribal Governments and Transportation agencies
Federally Recognized Tribes with ties to Pennsylvania

- Absentee Shawnee Tribe of Oklahoma
- Cayuga Nation
- Delaware Nation
- Delaware Tribe of Oklahoma
- Eastern Shawnee Tribe of Oklahoma
- Oneida Indian Nation
- Oneida Nation of Wisconsin
- Onondaga Nation
Federally Recognized Tribes with ties to Pennsylvania

- Seneca Nation of Indians
- Seneca Cayuga Tribe of Oklahoma
- St. Regis Mohawk Tribe
- Shawnee Tribe
- Stockbridge-Munsee Band of the Mohican Nation of Wisconsin
- Tonawanda Seneca Nation
- Tuscarora Nation
Big Picture
Consultation Efforts

- Developed notification forms (Illinois)
- Tribal Summit (2003)
- Tribal Consultation Newsletters
- Follow-up meetings held in Wisconsin and Oklahoma with Tribes. (2004-2005)
- SRI Tribal Consultation Training
- ACHP Tribal Consultation Training
- PennDOT Tribal position
- Developing MOA’s/PA’s/MOU’s with individual tribes
PENNSYLVANIA
TRANSPORTATION and TRIBAL CONSULTATION
NEWSLETTER

SPONSORED BY THE FHWA, PENNSYLVANIA DIVISION AND PENNDOT

Issue 3

On The Road:
PA FHWA and PENNDOT Staff Travel to Wisconsin and Oklahoma

In response to requests received during the 2003 Intermural Summit, the Pennsylvania Division FHWA and PENNDOT met with eight of the Federally-recognized tribes involved in Pennsylvania Section 106 consultation in their own states. Many thanks must go out to the participants who made the time to meet with us. We understand, perhaps even better than before, how difficult it is for you to take time away from the office and we hope that you found the discussions to be as rewarding and enjoyable as we did.

The purpose of these meetings was to continue learning about each other and strengthening the relationships between PA FHWA, PENNDOT, and each of the Federally-recognized tribes we consult with. The discussions focused on how to better streamline the current Section 106 tribal consultation process to work more effectively. At each meeting the subject of inadvertent discovery and respectful treatment of burials was a key topic. We appreciate each of the tribes' assistance in helping us better understand what “respectful treatment” entails and hopefully we conveyed our commitment to addressing those protocols in the field.

The first meeting on the road took place in Green Bay, Wisconsin. PA FHWA and PENNDOT representatives met with Corina Williams, THPO for the Oneida Nation of Wisconsin and Sherry White, Cultural Preservation Officer for the Stockbridge-Munsee Community.

Our second set of meetings took place in Oklahoma. Six Pennsylvania representatives met with the Delaware Tribe of Oklahoma, the Seneca-Cayuga Tribe of Oklahoma, the Shawnee Tribe, and the Eastern Shawnee Tribe of Oklahoma. After two days in Tulsa, the Pennsylvania group met with the Absentee-Shawnee Tribe of Oklahoma and the Delaware Nation of Oklahoma in Oklahoma City. We expect to complete our goal of meeting with each of the tribes in their own states by visiting New York State later this year.
December 13-14, 2004 - Green Bay, Wisconsin

As our first meeting on the road, Green Bay was a special treat. When we initially decided on meeting in Wisconsin in December, the weather was on everyone's mind. Although cold, no blizzards occurred and everyone was able to reach the meetings without major problems.

These first meetings included five representatives from Pennsylvania including: Karyn Vandervoort (PA-FHWA), Deborah Suciu-Smith (PA-FHWA), Ira Beckerman (PENNDOT), Eric Scruoguazza (PENNDOT), and Sara Clark (PENNDOT/ASC Group). As for the Wisconsin group, in addition to Sherry White (Stockbridge-Munsee Community) and Corina Williams (Oneida Nation, WI) three observers from the Wisconsin transportation community also joined us: Gwen Carr (WisDOT), Shirley Starcher (WisDOT), and Jacki Lawton (WI-FHWA).

We truly enjoyed our time at the meeting and talking with everyone there. We made a lot of progress toward lessening everyone's workload while keeping our eyes on what is important – the resources. In addition to work, we had the privilege of eating dinner at Lambeau Field (a very impressive stadium) and being introduced to a wonder of Wisconsin fare – the cheese curd.

Leaving Wisconsin, the Pennsylvania group felt the meeting was very successful and we were looking forward with optimism to our next meetings in Oklahoma.
Tulsa provided our first taste of Oklahoma. Pennsylvania representatives at the Tulsa meeting included Karyn Vandervoort (PA-FHWA), Deborah Suciu-Smith (PA-FHWA), Ira Beckerman (PENNDOT), Cathy Spohn (PENNDOT), Jamie McIntyre (PENNDOT) and Sara Clark (PENNDOT/ASC Group). Representing the Eastern Shawnee Tribe were Chief Charles Enyart and Joanne Beckham; for the Shawnee Tribe Tribal Historic Preservation Office Rebecca Hawkins and Reba Blalock; for the Seneca-Cayuga Tribe the NAGPRA Representative, Paul Barron; and for the Delaware Tribe NAGPRA Project Coordinator Levi Randell. Also observing on the first day were Liz Romero, the Planning and Tech. Services Team Leader from Oklahoma-FHWA and Michelle Conroy, also from OK-FHWA.

**Oklahoma Accomplishments:**

- Identified electronic means of communications; email notifications are acceptable and preferred by all tribes.
- Several of the tribes agreed to begin drafting an agreement to detail consultation procedures.
- Identified specific project types of interest to the tribes which allows us to forgo consultation on many CE level projects.
- Demonstrated the Cultural Resources GIS (CRGIS) and other online applications that can allow the tribes to identify projects of concern in the early stages of development.
- Continued to build relationships with each of the tribes which allows for more efficient and, ultimately, more effective consultation.

**Follow-Up:**

- Inform the PENNDOT District Cultural Resource Professionals of the tribes’ preferred notification conditions and procedures for inadvertent discoveries.
- Draft agreements detailing consultation procedures with each tribe that indicated an interest.
- Modify project notification forms to allow each tribal representative more flexibility in requesting further information and type of information.

The first day we had a chance to renew some acquaintances from the 2004 Summit held in Harrisburg, as well as meet some new faces. Topics for discussion ranged from inadvertent discovery, to consultation procedures, to projects of interest. Also under discussion was the immediate possibility the Delaware Tribe was facing of being taken off the list of Federally-recognized tribes. Everyone at the table sympathized with the Delaware Tribe’s difficult position. The consensus on that day was that FHWA will continue to maintain their government to government relationship with the tribes identified by the DOI as Federally-recognized. Even if the Delaware Tribe is de-listed, they are not precluded from offering comments as an invited consulting party.
February 3-4, 2005 - Oklahoma City, Oklahoma

After a thoughtful two days in Tulsa it was time to move on to our next meetings back in Oklahoma City.

Pennsylvania representatives again included Karyn Vandevoort, Deborah Suic-Smith, Ira Beckerman, Cathy Spohn, Jamie McIntyre and Sara Clark. Representing the Absentee-Shawnee Tribe were Karen Kaniatobe, the Tribal Historic Preservation Officer, and Ted Watson, Jr., the Cultural Site Manager. Representing the Delaware Nation were Tamara Francis, NAGPRA/Cultural Preservation Director, Linda Poolaw, NAGPRA Representative, and Billie Foreman, the Tribal Administrator.

Michelle Connolly the Oklahoma Division, FHWA again attended as an observer and was very helpful in providing some audio-visual assistance.

Current procedures and inadvertent discovery protocols were covered by the group. All modifications that had been proposed to the notification forms were concurred with by the representatives in attendance. Follow up tasks will include making those modifications and drafting some agreement language that will ensure consultation will continue effectively in the future.

News from the PennDOT Districts - Review of 2004

This past year PA-FHWA and PENNDOT continued to build on their consultative relationship with the fifteen Federally recognized tribes that have expressed interest in this state. Consultation has taken many forms from those blue初ial project information forms everyone loves to fill out and receive, to ongoing project consultation, and even face-to-face meetings in several states.

According to a brief review of our files, PENNDOT District archaeologists requested tribal consultation on approximately 20 projects over the course of 2004. The majority of these projects were low-impact requiring only minimal archaeology. The only project to require in-depth consultation was the Tioga SR 6215 project which included the presence of human remains.

From the feedback received at the meetings in Wisconsin and Oklahoma, Section 106 tribal consultation from PA-FHWA and PENNDOT will hopefully become even more streamlined in 2005. By modifying the notification forms the tribal representatives will be able to better locate projects geographically and let PENNDOT Cultural Resource Professionals in each District know what type of information to send on a project-by-project basis. With any luck this will help to cut down on paper since storage is a problem for many of the tribal preservation offices.
Announcements

The sixth annual Byways to the Past conference on transportation and historic preservation will be held May 18-19, 2005 in Indiana, PA. A pre-conference workshop - Scoping Transportation Projects for Section 106(d) Issues - will be held May 17. For more information and to register for the conference visit www.penndotbyways.net.

Two sessions of Introduction to Tribal Consultation will be led by the SRI Foundation in June. Transportation staff and consultants are encouraged to register. The first session will be held in Indiana, PA on June 21 and the second session will be held in Harrisburg, PA on June 23. Please contact Joe Baker at joesbaker@state.pa.us or 717-783-3147 for more information about either training course.

There are also plans to hold another session of the successful introductory Section 106 Consultation training course taught by Lynne Sebastian of the SRI Foundation in late Fall 2005. Please contact Joe Baker for more information.

The 2005 Joint Summer Meeting of TRB Committees - Native American Transportation Issues, Environmental Analysis in Transportation, and Historical/Archaeological Preservation in Transportation - will be held September 11-14, 2005 in Santa Fe, New Mexico. The Annual TRB Meeting will be held January 22-26, 2006 in Washington, D.C.

The Advisory Council on Historic Preservation: Native American Program is also offering training courses. They can be contacted directly for dates and locations. Valerie Hauser, Coordinator (202) 665-1360

The Tribal Consultation Website is now up at http://www.penndotbyways.org. This page contains a brief description of the consultation process, helpful publications, a list of tribal websites, and miscellaneous useful links. Once again, comments, criticisms, and suggestions are welcomed. New links, information, or corrections would be particularly useful. Please address any concerns to Joe Baker at joesbaker@state.pa.us.

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Individual Project Consultation

- Statewide Minor Projects Programmatic Agreement
- Notify tribe of action type by PennDOT Cultural Resource Professionals
- Identify areas of interest to specific Tribes
- Transmitting reports
- Project specific MOA’s/PA’s
Development and Evolution of Consultation Techniques

- Updating forms – goal to be electronic
- E-mail
- PennDOT Cultural Resource Website
- Project Website
- Video conference calls
- Cultural Resource Geographic Information System (CRGIS)
Cultural Resource Geographic Information System

Links to CRGIS

www.phmc.state.pa.us

www.dot7.state.pa.us/ce/SelectWelcome.asp

www.penndotcrm.org
CRGIS is a map-based inventory of the historic and archaeological sites and surveys stored in the files of the Bureau for Historic Preservation (BHP). The Pennsylvania Historical and Museum Commission (PHMC) has been collecting information concerning archaeological sites and historic resources for the greater part of a century. Currently there are approximately 20,000 archaeological sites and 113,000 historic properties in these files. Access to these paper records is free and open to the public by appointment at the BHP office in Harrisburg. CRGIS is a means of accessing some of these data without a trip to Harrisburg.

Web access to all of the historic resource data is open to the public. Access to archaeological site locations and detailed site information is restricted and password protected and will be granted to qualified individuals on a need to know basis. (Click here to apply for a password.) The "Ask ReGIS" function will allow you to query the underlying databases in a variety of ways to look for sites that are of interest to you.

CRGIS is an ongoing initiative, and tables and associated data will undergo staged enhancements and constant updating. Users are encouraged to notify CRGIS about additions or corrections that may be needed by using the "Feedback" function of the "Ask ReGIS" page. Please include references or other documentation for changes or additions. New sites will be added when received. Archaeological Site forms are available on the Society for Pennsylvania Archaeology website. Historic Resource Survey forms are available at the BHP website.

CRGIS is a partnership between the Pennsylvania Historical & Museum Commission (PHMC) and PennDOT, with financial support from the Federal Highway Administration.
Lessons Learned

little things can make a difference…

- E-mail and phone follow-ups are appreciated
- Tribal input can provide valuable insight into an archaeological site features
- Electronic consultation is a welcome option to several Tribes
- Self addressed stamped reply envelopes
- Consultation techniques must be fluid/evolving
Lessons Learned
little things can make a difference…

- Every meeting, every phone call, every training - there is something new to be learned about the Tribe and about the Federal responsibilities

- While the tribe is not like the public or other Section 106 consulting parties, they do have similar confusions regarding the role of the FHWA

- The Tribes and the Federal Agencies will be educating each other for many years to come.
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