

Appendix C: Tribal Consultation Plan

C.1 Introduction

The purpose of this document is to provide a framework for conducting consultations with Native American Tribes that will be affected by, or that are interested in, the Central Utah Railroad Project. Because this project is being developed and implemented within the regulatory jurisdiction of the U.S. Department of Transportation's Surface Transportation Board (STB) it is considered a federal undertaking that will require compliance with federal and state environmental and cultural preservation law, including but not limited to, the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), and the Utah State Antiquities Act (UCA 9-8-301–308).

The interaction between the STB (and any other involved Federal agencies) and the affected Tribes will be based on a government-to-government relationship. Tribes are separate governments, have their own forms of governance, their own constitutions and laws, their own elected leaders, their own governing councils, and judicial courts. Tribes are not simply another public interest group. Tribes, by treaty, law and executive order, have a unique legal status different than that of states, counties, and municipalities. Therefore, it is imperative to the success of the project that Tribal consultations be conducted in appropriate manner.

For purposes of this project, “tribal consultations” are viewed as an on-going relationship and process for initiating and carrying out dialogue among the involved Federal agencies, state or municipal agencies receiving Federal funding or permits, and Indian tribes in regard to proposed and on-going Federal actions. This will be done in a manner intended to secure meaningful and timely exchanges of information among all parties involved. Key components to a successful consultation plan should include:

- Early initiation and timely notification of the proposed (Federal) action;
- Meetings for identification of tribal issues,
- Exchange of information of the potential impact(s) on Indian tribes;
- Consultation on recommendations for resolution of issues,
- Discussion of potential effects of agency action relative to tribal issues,
- Timely feedback on Federal actions resulting from tribal input and recommendations in the decision-making process.

In sum, the Tribal consultation is a process, not an event. Consultation provides a mechanism for seeking and incorporating tribal perspectives into the decision-making process. Furthermore, consultation must be pre-decisional and should never be a one-way line of communication.

C.2 The Central Utah Railroad Project

The Six County Association of Governments (SCAOG) is proposing to construct and operate a new, 43-mile-long railroad line between Salina, Utah, and a connection with a line of the Union Pacific Railroad Company (UP) in the vicinity of Levan, Utah. In addition to general economic development, one of the primary objectives of the new line is to allow coal to be transported from the Southern Utah Fuel Company's (SUFCO) mine 30 miles east of Salina to the UP line near Levan, an operation currently being conducted by haul trucks passing through downtown Salina at a average rate of one vehicle per minute. SCAOG is seeking federal regulatory approval for the project from the STB. The STB is an independent, adjudicatory body is responsible for the economic regulation of certain interstate surface transportation matters, primarily railroads, within the United States. As part of the approval process, the STB requires that an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) be conducted with an opportunity for public review and comment. HDR Engineering, Inc. (HDR) has been contracted by the STB Section of Environmental Analysis (SEA) to assist SEA in the preparation of its environmental review documents.

The proposed rail project will extend northward from the Salina area up the Sevier Valley to the southern reaches of the Juab Valley near Levan. The Sevier Valley is divided by the Sevier River and its flanking alluvial terraces, and generally bound by the Pahvant Mountain Range and the Valley Mountains to the west and the San Pitch Mountains to the east. This portion of central Utah has a long and complex sequence of human use and occupation spanning the last 10,000 years. The descendants of some of the people who once lived in the region, and the greater Great Basin, can be found among Native American Tribes today. It is therefore imperative that the planning and implementation of this project includes close and continuous consultations with the affected and interested contemporary Tribes.

Utah today is home to five federally-recognized Native American Tribes: the Ute, Paiute, Goshute, Shoshoni, and Navajo. The Paiutes of southern Utah are subdivided into five southern bands, the Kanosh Band, the Koosharem Band, the Indian Peaks Band, and Cedar City Band, and the Shivwits Band. The Goshute Tribe of northwestern Utah are split into two groups, the Skull Valley Band and the Confederated Tribes of the Goshute Reservation. In addition, several Tribes located in other States claim portions of Utah as part of their ancestral homelands, and therefore they must also be considered in the consultation process.

Based on the recommendations of James Dykman, Cultural Resource Coordinator for the Utah State Historic Preservation Office (SHPO), Tribes with interests most relevant to the proposed project area would include the Kanosh Band, the Koosharem Band, and the Cedar City of the Paiute Tribe, the Skull Valley Goshute Band and the Confederated Tribes of the Goshute Reservation, the Ute Tribe, and the Hopi Tribe of Arizona. The reservations of the Kanosh Band and the Koosharem Band are located in close proximity to the project area. The Kanosh Reservation is situated in the Pahvant Range immediately west of Salina and the Sevier Valley. The Koosharem Reservation is situated roughly 15 miles south of Salina on

the Sevier Plateau. The reservations for the other Tribes are more distant relative to the project area with the Ute Tribe located to the northeast, the Goshute Bands to the northwest, the Cedar City Band to the southwest. The Hopi Reservation is located far to the south in Arizona.

C.3 The Consultation Process

Initial consultations should be made with all potentially interested tribal governments and other Native American groups, by letter and telephone, explaining the reason for the contact; requesting their direct participation and input in the decision making process; and asking them to identify any traditional cultural or religious leaders and practitioners who they think should also be contacted. For any Indian tribe that may be expected to have an interest in a proposed decision, the initial point of contact should be the tribal chief executive.

The level of involvement and the structure of subsequent consultations may vary between Tribes, as each has their own perspectives on how to approach different issues. If a response is not received from a contacted Tribe then a follow-up phone call should be made to see how they would like to participate in the planning process. Some Tribes may want to review project information on a regular basis whereas some may want to provide information from a more passive position. Still others may want to conduct field visits with the engineers and planners in order to provide more direct input and to learn more about the specifics of the proposed undertaking. Through these initial consultations, the structure and organization of information-flow can be cultivated, points of contact between all interested parties can be identified, and a mutually agreed upon process and schedule for reviewing documents, and providing and incorporating comments into those documents, can be developed for each Tribe.

Once a framework for communication has been established, consultations will be on-going, through meetings, teleconferences or other means and could continue beyond the planning phase through construction and possibly even into when the project is operational. Throughout the course of the project, consultations should include notices of public meetings and announcements of opportunities to review environmental documents. Implementation of the consultation plan will facilitate communication with tribal representatives and help assure tribal issues are addressed appropriately. The conclusion of consultations will depend on the specifics of the project.

In all cases the Native American groups which have been involved in the consultation process should be notified of the final decision. This notification should specifically include a discussion of the STB's basis for its decisions, relationship to the concerns raised in consultation, and the avenues available for protest or appeal of the decision.

C.4 Tribal Contacts

A consultation list of the leadership contacts for the interested Tribes is presented below. The information in the contact list is up to date as of June 6, 2003. Contacts for cultural resources issues are also included for those Tribes that have formally designated personnel.

Ute Indian Tribe

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Ute Indian Tribe
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Fax: (435) 722-2374

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Paiute Indian Tribe of Utah

Chairwoman Lora E. Tom
Paiute Indian Tribe of Utah
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Ms. Dorena Martineau
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Koosharem Band, Southern Paiute Tribe

Chairwoman Cindy Charles
Koosharem Band, Southern Paiute Tribe
440 North Paiute Drive
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Phone: (435) 893-8432

Kanosh Band, Southern Paiute Tribe

Chairman Phil Pikyavit
Kanosh Band, Southern Paiute Tribe
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Goshute Indian Tribe

Chairman Amos Murphy
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Skull Valley Band of Goshute Indians

Chairman Leon Bear
Skull Valley Band of Goshute Indians
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The Hopi Tribe

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The Hopi Tribe
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