

**MUKILTEO MULTIMODAL FERRY
TERMINAL PROJECT
GOVERNMENT-TO-GOVERNMENT
TRIBAL CONSULTATION PLAN**

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1. Introduction

The following plan will guide the Mukilteo Multimodal project through government-to-government tribal consultation during the period of scoping through NEPA determination. An addendum to this plan, to be produced at a later date will include specific tribal consultation activities during permitting and construction of the project.

This plan is designed to encourage early and continued feedback from, and involvement by, tribes potentially affected by the Mukilteo Multimodal project, and to ensure that their input will be incorporated into the decision making process. The processes and commitments outlined below apply to all interaction between the Mukilteo Multimodal project and tribes. Although tribal coordination and government-to-government tribal consultation is being undertaken as a distinct outreach effort, tribal involvement will also occur during agency coordination and public involvement.

2. Overview

2.1 Project Team Structure

The Federal Transit Administration (FTA) is the federal lead agency for this project. Washington State Department of Transportation (WSDOT) is the project sponsor. FTA retains responsibility for compliance with consultation requirements. Any contact with the tribes will be initiated by FTA, or at their request through the WSDOT. FTA is the lead for meetings and negotiations for the tribal consultation process under the National Environmental Policy Act (NEPA).

The Mukilteo Multimodal project has had a designated tribal liaison for this project. The WSDOT HQ Tribal Liaison will assist FTA and WSF Tribal Liaison in tribal coordination efforts as necessary. With the concurrence of FTA, other WSDOT team members may participate in the on-going government-to-government dialogue. Consultants will not participate in any government-to-government dialogue. Consultants will assist in preparing for meetings with the tribes, but all contact will be through FTA or their WSDOT staff designee, if appropriate, on the project. Communication with tribes will be coordinated through the FTA and the Mukilteo Multimodal Tribal Liaison to ensure that information is managed internally and integrated into the government-to-government dialogue with the tribes. All tribal consultation and the results from these efforts will be documented in the project's administrative record.

2.2 Legal Guidance

The FTA will engage in early and continuous consultation with affect tribes throughout the process in accordance with the following documents and regulations:

- **Government-to-Government Relationship with Tribal Governments**, a Presidential Memorandum dated September 23, 2004, requires that federal agencies operate within a government-to-government relationship with federally recognized tribal governments.

- **Section 106 of the National Historic Preservation Act** requires that federal agencies consult with Indian tribes and the State Historic Preservation Officer regarding potential effects on historic properties prior to making decisions that could affect those properties. Through Section 106, the federal leads initiate consultation, identify resources, determine the effect of the project, avoid, minimize, and then mitigate any impacts.
- **The National Environmental Policy Act (NEPA)** calls for federal agencies to invite the participation of any affected Native American tribe in the environmental review process.
- **The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)**, the recent transportation bill reauthorization, requires that federal agencies coordinate with tribal governments by inviting them to be “participating agencies.” Participating agency status provides tribal governments an additional method to engage in the environmental review process, but it does not supersede government-to-government or Section 106 consultation. As a participating agency the tribes are afforded an opportunity to comment at specific project milestones outlined in SAFETEA-LU, although these same opportunities would be given through the consultation process.

3. Goals and Objectives

Goals for the tribal consultation process and objectives for meeting them are listed below.

- Goal: Honor the commitment of FTA to engage in effective government-to-government consultation consistent with the aforementioned regulations.
 - Objective: Ensure FTA, Mukilteo Multimodal staff and tribes engage in an open exchange of information about the project, its potential impacts, and appropriate mitigation.
- Goal: Design and develop the Mukilteo Multimodal project, including appropriate mitigation, if applicable, in a manner that protects cultural and natural resources.
 - Objective: Reach agreement in accordance with the NEPA process that is compatible with the mutual interests of the tribes, FTA, and WSDOT.
 - Objective: Address potential impacts to cultural resources, including those of particular tribal interest, through appropriate pre-construction surveys and analysis.
 - Objective: Modify the existing “Inadvertent Discovery Plan” to describe the protocols to be taken in the event of an unanticipated cultural or archaeological discovery during future ground disturbing work.
- Goal: Address tribal feedback and concerns in project planning, design and mitigation.
 - Objective: Engage tribes in project decision-making, including decisions regarding environmental review, schedule, scoping of effects to be evaluated, alternatives to be considered, and project design and mitigation.
- Goal: Coordinate communications between the project team and tribes.

- Objective: Establish a process for FTA and the project team to receive and respond to tribal input.
- Objective: Ensure all communication between the project team and tribes is coordinated with the FTA and Mukilteo Multimodal Tribal Liaison.
- Goal: Create durable intergovernmental relationships that promote coordinated transportation partnerships.
 - Objective: Build constructive relationships between FTA, WSDOT and affected tribes with whom FTA and WSDOT are or will be engaged in consultations for other projects.

4. Consultation Approach

The general approach to government-to-government consultation for the Mukilteo Multimodal project is as follows:

- *Identify potentially interested tribes.* The Mukilteo Multimodal project team, in consultation with FTA and WSDOT headquarters staff, will assess the following factors that may indicate a tribe's interest in the project (completed):
 - Potential for the tribe to have culturally or historically significant property or items in the area of the project (this is a large number of tribes due to the signing of the Point Elliot Treaty)
 - Potential for the tribe to have a resource or cultural interest in the area of the project
 - The tribe's jurisdiction and control of land that may be affected by the project
 - Expressed interest through "consultation area maps" a tribe has provided to WSDOT
- *Invite potentially interested tribes to formally consult on the project.* The FTA, working with the Mukilteo Multimodal Tribal Liaison, will formally contact potentially affected tribes to determine whether they are interested in further contact with the project team. (completed)
- *Engage in both formal and technical consultation with tribal staff.* At the request of the tribes, the FTA will formally meet with cultural and natural resource committees, and could involve Mukilteo Multimodal technical staff in working group meetings concerning applicable issues (e.g., identification of fish and wildlife habitat).
 - At the request of interested tribes, FTA and the project team will meet with the Tribal Council at major project milestones.
 - Technical staff will be invited to all working group meetings that the tribe may have an interest or expertise in.
 - The consultation process will integrate both formal and informal contact with the Tribal Council and tribal staff, respectively.

- *Meet with representatives of interested tribes to review broad issues.* FTA and the Mukilteo Multimodal staff will meet with interested tribes early in the environmental review process in order to establish the following information:
 - An understanding of the aspects of the Mukilteo Multimodal project that are likely to interest the tribes
 - Preliminary information about the potential for the project to affect tribal land, historical or cultural resources, fishing and other aquatic resources, or any other issues of tribal concern
- *Seek to resolve issues in parallel with project planning and permitting activities.* FTA and the Mukilteo Multimodal staff will keep the interested tribes fully informed throughout the project environmental process. In acknowledgement that Mukilteo Multimodal project must afford the interested tribes with more than the opportunity to participate as members of the general public in the planning and permitting process, FTA and the Mukilteo Multimodal project staff will take the following actions to ensure there is effective government-to-government consultation:
 - Seek tribal input regarding alternatives and opportunities to avoid, reduce, or otherwise mitigate the effects of the Mukilteo Multimodal project on tribal interests.
 - Seek tribal comment throughout the project's environmental review, permitting and regulatory review processes.

The project team identified thirteen tribal communities that were original signatories to the Point Elliott Treaty. In addition to 11 federally recognized tribes, there are two non-federally recognized tribal entities (the Duwamish and the Snohomish Tribes) that are descended from signatory tribes. Outreach to these two tribes was distinct from government-to-government consultation, and was intended to satisfy NHPA Section 106 provisions (relating to historic and cultural properties) that encourage the participation of potentially interested communities; however, both have not shown an interest in the project to date.

The Nooksack Tribe of Indians informed the project team on October 25, 2010 that the project is outside of their area of interest.

The remaining potentially interested tribes and initially identified tribal contacts are as follows:

Federally Recognized Tribes

Lummi Tribe of the Lummi Reservation
2616 Kwina Road
Bellingham, WA 98226

The Honorable Cliff Cultee, Chair
Lena Tso, THPO
Kelly Easter, Cultural Resources
Merle Jefferson, Natural Resources
Elden Hillaire, Natural Resources

Muckleshoot Indian Tribe of the Muckleshoot
Reservation
39015 172nd Ave SE
Auburn, WA 98092

The Honorable Virginia Cross
Laura Murphy, Cultural Resources
Karen Walter, Natural Resources
Glen St. Amant, Fisheries Manager

Samish Indian Tribe
PO Box 217
Anacortes, WA 98221

The Honorable Tom Wooten, Chair
Jackie Ferry, Cultural Resources
Ted Gage, Planning Director

Sauk-Suiattle Indian Tribe of Washington
5318 Chief Brown Lane
Darrington, WA 98241

The Honorable Janice Mabee, Chair
Norma Joseph, Cultural Resources
Richard Wolten, Natural Resources

Snoqualmie Tribe
8130 Railroad Avenue, Suite 103
P O Box 969
Snoqualmie 98065

The Honorable Shelley Burch, Chair
Ray Mullen, Cultural Resources
Cindy Spiry, Natural Resources

Stillaguamish Tribe of Washington
PO Box 277
Arlington, WA 98223

The Honorable Shawn Yanity, Chair
Lora Pennington, Cultural Resources
Pat Stevenson, Natural Resources

Suquamish Indian Tribe of the Port Madison
Reservation
P.O. Box 498
Suquamish, WA 98392-0498

The Honorable Leonard Forsman, Chair
Dennis Lewarch, THPO
Michelle Hanson, Tribal Attorney
Tom Ostrom, Natural Resources

Swinomish Indians of the Swinomish
Reservation
11404 Moorage Way
LaConner, WA 98257

The Honorable Brian Cladoosby, Chair
Larry Campbell, Cultural Resources
Stan Walsh, Natural Resources
Lorraine Loomis, Fisheries Director

Tulalip Tribes of the Tulalip Reservation
6406 Marine Drive
Tulalip, WA 98271

The Honorable Melvin Sheldon, Jr. Chair
Richard Young, Environmental Programs
Hank Gobin, Cultural Resources
Daryl Williams, Environmental Liaison
George White, Public Affairs

Upper Skagit Indian Tribe of Washington
25944 Community Plaza
Sedro-Woolley, WA 98284

The Honorable Jennifer Washington, Chair
Scott Schuyler, Cultural Resources

The following table identifies key points in the review process where FTA and the Mukilteo Multimodal project team will be seeking tribal review and input. During this consultation, we will strive to resolve tribal concerns as we move through the NEPA process.

Event	Approximate Timeframe	Consultation Activity	Desired Outcome
Purpose and Need	March 2010	Share detailed information regarding purpose and need (meetings)	Feedback identifying issues associated with purpose and need
Alternatives screening	March-October 2010	Share detailed information regarding alternatives and screening (meetings)	Feedback identifying issues associated with alternatives
Preparation of draft discipline reports	December 2009 – January 2011	Solicit review and comment on selected discipline reports (meetings and document review)	Early identification of issues associated with environmental analysis
Preparation of draft EIS	October 2010 – August 2011	Solicit review and comment on first draft EIS (meetings and document review)	Discussion of any significant issues associated with environmental analysis and potential mitigation
Selection of locally preferred alternative	November 2011	Discuss selection of preferred alternative and mitigation (meetings)	Agreement on concept and approach for preferred alternative and potential mitigation
Preparation of Final EIS	December 2011 – October 2012	Solicit review and comment on second draft EIS (meetings and document review)	Resolution of issues identified in earlier review activities
FEIS/ROD	November – December 2012	Discuss results of environmental review and final resolution of Section 106/4(f) issues (meetings)	Agreement on project's concept and approach as set forth in the environmental review decision document; agreement on approach and timeline for resolving treaty rights issues
PSE	2013-2015	To be determined	To be addressed in amendment to consultation plan
Construction	2015-2019	To be determined	To be addressed in amendment to consultation plan

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