

Resolution No. 013-22
Date Enacted: February 01, 2022
Subject Matter: 2022 MOA with
WSDOT for 23 Miles of SR 112

RESOLUTION NO. 013-22 OF THE MAKAH TRIBAL COUNCIL

WHEREAS, The Makah Tribal Council is the governing body of the Makah Indian Reservation by the authority of the Constitution and By-laws of the Makah Indian Tribe located in Washington State as approved on May 16, 1936 by the Secretary of the Interior; and

WHEREAS, The Makah Tribal Council is responsible for the Tribal Administration, Planning, Social, Health & Education, Economic Development, Enhancement & Protection of the Natural Resources, Public Safety, Judicial, Housing, and to preserve the culture, treaty rights and tribal sovereignty of the Makah Tribe; and

WHEREAS, The Makah Tribal Council contends the National Tribal Transportation Facility Inventory is comprehensive of all transportation facilities including State, County, City, and Federal roads that are within tribal land boundaries and tribal properties or provide primary access to those properties and are open to the public,

WHEREAS, The Makah Tribal Council recognizes SR 112 is the only public access to the Makah Reservation which is connecting with the Makah east boundary at mile marker "0". In 2001 the forementioned 23 miles of SR 112 was added to the Makah Long Range Transportation Plan and in tandem uploaded to the National Tribal Transportation Facility Inventory (NTTFI).

WHEREAS, The Makah Tribe use these transportation facilities for daily living and access to schools, employment, shopping, healthcare, traditional and recreational activities. These transportation facilities are crucial to Tribal member's access to goods and services, existing and potential economic development supply chains as well as emergency evacuation and response, and

WHEREAS, The Makah Tribal Council acknowledges WSDOT is the responsible Agency for maintenance of SR 112 transportation facilities. And the Makah Tribal Council entering into an Intergovernmental Memorandum of Agreement with WSDOT does not render WSDOT less responsible for the roads or in any way impact roadway jurisdiction, ownership, or maintenance responsibility.

WHEREAS, The Makah Tribal Council intent and purpose for this Intergovernmental Memorandum of Agreement with WSDOT will allow additional federal funding opportunities for critically needed assistance when the road sustains Severe Storm Damage events.

NOW THEREFORE BE IT RESOLVED, The Makah Tribal Council hereby approves entering into an Intergovernmental Memorandum of Agreement with WSDOT to provide access to a new level of potential funding. These funding sources, which the road is currently not eligible for, include Tribal Transportation Program Funding, Emergency Relief (ER and ERFO) Funding, Federal Grant Opportunities, and other federal facility funding. These funds may supplement WSDOT existing funding opportunities in the case of the road's emergency failure.

BE IT FURTHER RESOLVED that this Resolution shall remain in effect until rescinded or superseded by further action of the Makah Tribal Council.

MAKAH TRIBAL COUNCIL


Timothy J. Greene Sr., Chairman

CERTIFICATION

The foregoing resolution was adopted at a regular _____ special X concurrence meeting held on February 01, 2022 in which a quorum was present and the resolution was adopted by a vote of 3 FOR and 0 AGAINST, the Chairman or the Vice-Chairman in his absence being authorized to sign the resolution.


Rosella Johnson, Tribal Secretary
MAKAH TRIBAL COUNCIL



Handwritten text, mostly illegible due to fading and bleed-through. The text appears to be organized into several paragraphs, with some lines starting with capital letters. The ink is dark but very light on this scan.

Handwritten signature or name, possibly "John Doe", written in a cursive style.

Handwritten text at the bottom of the page, possibly a date or a reference number, appearing as "1950-1951".





MAKAH TRIBAL COUNCIL

P.O. BOX 115 • NEAH BAY, WA 98357 • 360-645-2201



IN REPLY REFER TO:

Dennis Engel, Multimodal Planner
Washington State Department of Transportation
Olympic Region office

DATE

RE: Public Authority Letter of Acknowledgement

To: Dennis Engel,

The Makah Tribe has identified portions of the WSDOT transportation system in the Olympic Region they wish enter into an Intergovernmental Memorandum of Agreement (MOA).

In 2001 the Makah Tribal Council added the 23 miles of SR 112 to the Makah Tribe Federal Highway Administration National Tribal Transportation Facility Inventory (NTTFI). The attached strip maps provide details on the specific location of the transportation facilities. The Makah Tribe proposes to enter into an Intergovernmental Memorandum of Agreement with WSDOT. These transportation facilities are crucial to Tribal member's access to goods and services, existing and potential economic development as well as emergency evacuation and response. Tribal members use these transportation facilities for daily living and access to schools, employment, shopping, healthcare, and traditional and recreational activities.

The Makah Tribal Council acknowledges, WSDOT is responsible for the maintenance of these transportation facilities and the Tribe ensures this MOA will not impact that responsibility in any manner. In sanctioning the MOA, will however, enable this transportation facility eligible for additional federal funding opportunities which currently are not accessible. In no way does this action render WSDOT less responsible for the roads or in any way impact roadway jurisdiction, ownership, or maintenance responsibility. Your jurisdiction's ability to continue to include this transportation facility in (and receive funds from) other inventory systems or programs will remain.

WSDOT understands the importance of this route to the Makah Tribe and is aware that these roads may need maintenance or improvement at present and in the future to maintain public safety. If the Tribe, with full approval from, and in full coordination with, WSDOT, does perform roadway improvements to any of these transportation facilities, Clallam County agrees to continue the required maintenance on the roads as it is presently WSDOT's responsibility.

Therefore, in accordance with 25 CFR, Part 170, the Makah Tribe in conjunction with WSDOT is acknowledging the BIA DOT route(s) from the NTTFI.

Sincerely,

Timothy J. Greene, Sr., Chairman

WSDOT Representative

Steve Roark, Olympic Region Administrator

Letter of Acknowledgement

This document describes the intent and purpose of the presented Letter of Acknowledgement (LOA) document. This is a required attachment as detailed in regulations (Federal Register 25 CFR, Part 170.446) which govern the Tribal Transportation Program (TTP) and the National Tribal Transportation Facility Inventory (NTTFI). This program is jointly administered by the Bureau of Indian Affairs Department of Transportation (BIA-DOT), the Federal Highway Administration (FHWA), and Tribal Transportation Departments across the Nation. The TTP is a federal funding set aside program established in the National Highway Bill, currently the FAST Act, which provides funds for Tribes to maintain, improve, and develop new transportation facilities.

The TTP System is not just an inventory of BIA and tribally owned roads within tribal land boundaries, other jurisdictional roads are eligible for inclusion. The TTP Inventory is comprehensive of all transportation facilities including State, County, City, and Federal roads that are within tribal land boundaries and tribal properties or provide primary access to those properties and are open to the public.

The purpose of the LOA is to document the authorization of the jurisdiction with maintenance responsibility or ownership, and acknowledging the Tribal NTTFI. These routes provide access to goods and services, existing and potential economic development, as well as emergency evacuation and response. Tribal members use these routes for daily living and access to schools, employment, mail, shopping, healthcare, traditional, and recreational activities.

What this document does:

- Acknowledges inclusion of the specified agency-owned and/or maintained roadways from the Tribe's TTP NTTFI inventory, a federal system.
- Acknowledging this facility from the NTTFI federal system officially provides access to a new level of potential funding. These funding sources, which the road is currently not eligible for, include TTP Funding, Emergency Relief (ER and ERFO) Funding, Federal Grant Opportunities, and other federal facility funding. These funds may supplement your existing funding opportunities in the case of emergency failure.
- Provides an opportunity for collaborative roadway system maintenance and improvement between the Agency and the Tribe.

This document does NOT:

- Have any impact on the continued inclusion of this route on other systems/inventories.
- Have any impact on the current funding received by the Jurisdiction for the facility.
- Define or determine roadway ownership or maintenance responsibility
- Transfer any authority over roadway facility jurisdiction either to or from an agency or Tribe
- Legally obligate any party to accept or abandon any roadway ownership or maintenance responsibility

- Obligate the Tribe to provide funding for this route
- Obligate the Jurisdiction to change in any way the current oversight, maintenance, and administration of the facility.
- Allow the Tribe to perform any activities on the facility without the direct written approval of, and required coordination with, the facility owner.

How can this agreement benefit a cooperating agency?

It provides an opportunity for additional funding for roadway network improvement and a more cooperative regional approach to transportation system management. It can also provide emergency funding in case of natural disaster or major failure.

An example of this is the 2014 Oso Mudslide in Washington State, impacting State Route 530 (SR 530) west of the town of Darrington.

SR 530 is the primary east/west route to and from the Puget Sound for many small communities in the region, some tribal, and was included as part of a Tribal NTTFI. On March 22, 2014 a massive landslide engulfed a rural neighborhood, dammed the Stillaguamish River and blocked SR 530. As part of the recovery and rebuilding efforts, the Washington State Department of Transportation (WSDOT) worked closely with the FHWA to secure *Emergency Relief for Federally Owned Roads* (ERFO) funding, a fund established to assist federal agencies with the repair or reconstruction of federal transportation facilities, including tribal, which are found to have suffered serious damage by a natural disaster over a wide area or by a catastrophic failure.

Due to SR 530 being designated as a Tribal Transportation Facility through the TTP for a local tribe, it allowed the Federal funding share to increase from 86.5% to 100% for the final contract, saving WSDOT approximately \$6 million in matching funds that were instead provided by the Federal Government.

This is one example of many that highlight the potential benefits of this agreement.