

Teleconference Summary

TBWG Policy Research Subcommittee

October 17, 2006 1:00 PM EST

In on the call:

Dan Braden, Rex Young, **Alaska Department of Transportation**; Kathy Carroll, **Canada Border Services Agency**; Walter Steeves, **Eastern Border Transportation Coalition**; Ted Mackay, **Embassy of Canada**; Connie van Rosmalen, **Manitoba Transportation and Government Services**; Isabelle Trepanier, Mimi Sukhdeo, **Transport Canada**; Michael Makowsky, **Saskatchewan Highways and Transportation**; Steve Sandsbury, **U.S. Customs and Border Protection, Office of Field Operations**, Pedro Erviti, **U.S. Department of State**; Michael Avery, Jill Hochman, Alicia Nolan, Roger Petzold, Valencia Williams, **U.S. Federal Highway Administration**; David Davidson, **Western Washington University, Border Policy Research Institute**; Hugh Conroy, **Whatcom Council of Governments**.

Hugh Conroy started the discussion with roll-call and a review of the agenda.

- 1) Status of the two priority actions we identified in June in Bellingham
 - a) Policy assessment of **cross-border worker access** and
 - b) Evaluation of where TBWG dialog might fit into the **US FMCSA project** regarding cross-border trucking
- 2) What we should prepare for the **October 24 meeting**: day-two update and day-three breakout session.
- 3) New agenda & materials.
 - a) Preliminary discussion of what the policy-subcommittee might do with **defined support from the emerging U.S. FHWA pooled-fund** with U.S. border states.

U.S. APHIS border program

Isabelle Trepanier noted TBWG might want to look more at the recently-announced border-fees to be assessed by U.S. Agricultural Plant Health Inspection Services. Isabelle will be mentioning this during her update at TBWG. Ted Mackay offered to e-mail to the subcommittee the Canadian Government's official statement regarding the program.

Cross-border worker access

Hugh Conroy updated the subcommittee on what additional information has been gathered since June. There are significant distinctions between rules triggered by maintenance activity and rules and other implications generated by construction so, information is being compiled separately for now.

Hugh has been following up on the maintenance-access questions with Pedro Erviti, Ted Mackay, and also with the U.S. Consulate in Vancouver. Pedro Erviti was recently able to confirm, for the United States' part of the question, that Canadian workers conducting maintenance across, but near the border, would be able to do so without a visa. When needed, gaining access to US inspection-agency property would be a separate matter.

Pedro Erviti also noted in recent e-mail that documentation of coordinated State-Province maintenance commitments (like the draft that Hugh Conroy asked Pedro to review), if titled an agreement, or establishing a commitment of funds or personnel, requires, at least from the U.S. perspective, international agreement authority.

Isabelle Trepanier noted that many corridor groups have [cross-border] MOUs involving Quebec, Maine, New York, etc. But these are often for a different purpose than committing funds.

Hugh Conroy noted the potential need to understand this more fully since programs like the U.S. Coordinated Border Infrastructure Program has provisions for spending money on border improvements on the Canadian or Mexican side of border-crossings. Roger Petzold pointed out that these are likely different issues than what pertains to funding programs that are implemented through contract. Roger said he would look into specifics on this.

Hugh pointed out that cross-border investments between Washington and British Columbia have been done, and expect to continue to be done through structured financial partnerships—agreements. So this issue merits additional research. Jill Hochman supported the need to develop a reference guide to help us understand the various mechanisms for cross-border partnership and the most appropriate applications of each. Ted Mackay said that he would look into whether such a write-up exists or inquire about who could provide this information.

Another reason for better understanding the federal rules surrounding cross-border agreements is that some states and provinces have their own legislation authorizing branches of their governments to formally cooperate with agencies across the border. As an example, Hugh Conroy explained that BC and WA both have laws that support agreements between them. Roger Petzold reported that Texas recently passed legislation giving the state authority to enter into agreements with Mexico. In order for TBWG to understand how state and provincial law in these areas can be an asset for achieving broader, binational policy objectives, we should understand the scope of U.S. and Canadian federal rules surrounding international-agreement authority.

Moving on to cross-border worker access for construction projects, Hugh Conroy asked Walter Steeves to review some of the results from EBTC's recent workshop on border infrastructure. Walter commented that the workshop covered both maintenance and construction. With past, border-related construction projects, work typically proceeded with a rigid adherence to the border-line itself—largely disallowing integrated construction efforts between the U.S. and Canada, etc. Discussion at the EBTC workshop covered the idea that perhaps a worker-security zone could be established around a construction site. There were also sentiments that local-level, informal agreements have gotten the job done, and that for many purposes, it would be more practical to let those arrangements keep working. Walter noted that some labor experts were at the conference—from the state of Maine and from the Canadian federal government. Walter suggested that it would be good to continue follow-up with Susi Derrah regarding the status of labor-access permitting on that project.

Roger Petzold asked Walter for additional information about the workshop outcomes—specifically policy questions. Walter added that the labor issues discussed were some. Others included duties and taxes on cross-border construction materials (which seems to be a bigger issue for Canada).

Alicia Nolan, referring to the Calais-St. Stephen project, reminded that there was an interest in documenting all of the various issues and solutions as a resource for future projects. Walter confirmed that EBTC was interested in putting together such a “how-to” guide.

US FMCSA project

Hugh explained that relatively little has been done to follow up on this interest of the policy group. Perhaps, if FMCSA will be attending the Niagara meeting, an informal update and discussion at the day-three breakout session would be sufficient. Isabelle reported that no one from FMSCA is currently registered for the Niagara meeting.

Ted Mackay reviewed an update he had recently received from the Canadian Commercial Vehicle Safety Alliance (CVSA). CVSA is, along with SAIC, one of the contractors working for FMSCA. The overview included a broad overview of trucking regulations in Canada, bilateral issues, and reciprocity issues. CVSA has conducted consultations in Yukon, Alberta, British Columbia, Saskatchewan, and Manitoba. In the next several weeks, consultations are scheduled for Quebec and Ontario.

Alicia Nolan will check to see if Milt Schmidt might be available for the Niagara meeting. Isabelle also noted that we can get a conference-call connection set up for the policy-group's session.

Isabelle Trepanier and Roger Petzold commented that a more complete update on this project would be a good item for the plenary agenda for the spring meeting in Chicago.

October 24 TBWG meeting

For the 10-minute policy-subcommittee update, it was agreed that the gist of what's been discussed so far should be of interest. Isabelle Trepanier specifically pointed out interest in state-province agreement formats and that the update session would be a good time to ask for input from others.

Hugh Conroy added that he has had an interest in developing a list of existing laws that border states and provinces may have (like BC and WA do) to support cooperative agreements. Hugh will start formatting something and then other TBWG participants can be invited to fill in the matrix for their states and provinces.

For the day-three session, the points already listed on the agenda (the same as those covered today) can remain as the basis for continuing discussion and review of updated documentation. In addition to that, it is likely that the policy subcommittee will want to discuss emerging opportunities from the FHWA-US border states pooled fund. This was the next item of business for today's teleconference.

Revised TBWG October agenda & U.S. pooled fund initiative

Hugh Conroy noted the updated agenda and information recently e-mailed to the full TBWG list. Referring specifically to the U.S. pooled fund draft work plan, Hugh noted that this will be introduced and discussed late on day-two of the plenary meeting in Niagara. Project 2 on the work-plan is "Research efforts associated with the TBWG Policy Research Working Group." As the policy-group, we will likely want to discuss this opportunity in more detail.

Hugh also pointed out that the TBWG Action Plan has been augmented with draft-text noting how pooled-fund work would fit under existing actions. This, too, will be discussed at the plenary meeting.

Follow-up items

- Ted Mackay will send a copy of Canada's statement regarding the US APHIS border program.
- Hugh will draft an agenda for the policy subcommittee break-out session.

- Hugh will update the cross-border worker access policy assessment with recently obtained information and circulate and a matrix of issues building on Susi Derrah's work in New Brunswick (with Maine).
- Hugh will start a compilation of state and provincial laws in support of cross-border cooperative agreements.

Conference-call option for the October 25 policy subcommittee session

A conference call option will be made available. Meeting time: **8:30 – 10:15 EST**

[Peter Duvnjak has provided the following dial-in information:

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