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06/19/2007 09:31 AM

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Subject NAHBA Quarterly Teleconference Minutes

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Below are the minutes of the April 26, 2007 NAHBA Quarterly Teleconference. The minutes will be posted on the NAHBA website at [www.NAHBA.org](http://www.NAHBA.org).

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MINUTES  
QUARTERLY TELECONFERENCE  
FHWA/NAHBA  
APRIL 26, 2007

Participants:

Joanna Campbell, Georgia DOT  
Joyce Musick, Missouri DOT  
John Garner, Florida DOT  
Keith Melvin, South Carolina DOT  
Barbara Wessinger, South Carolina DOT  
Jimmy Isonhood, Mississippi DOT  
Justin Feclia, Utah DOT  
Jan Strough, Idaho DOT  
Kevin Fry, Scenic America  
Layne Patton, Arizona DOT  
Myron Laible, OAAA  
William "Bill" Bickley, MADOT  
Jean Todd, Nebraska DOT  
Kenneth Payne, Esq., Nebraska DOT  
James Arbis, California DOT  
Kenneth Parmalee, California DOT  
Cathy O'Hara, FHWA-Washington  
Gerald Solomon, FHWA - Washington  
Bob Black, FHWA - Washington  
Janis Gramatins, FHWA-Washington  
Marshall Wainright, FHWA  
Robin Broils-Cox, FHWA-Washington  
Joe Little, CBS Outdoor  
Kerry Yoakum, Ohio DOT  
Rod Boehm, Tennessee DOT

Meeting was called to order at 2:00 pm by NAHBA Chair Jimmy Isonhood. Juanice Hagan, Treasurer/secretary of NAHBA could not be present. Barbara Wessinger, Past Chair, agreed to take notes and prepare minutes.

1. William J. Bickley, Jr., Executive Director, Outdoor

## Advertising

Division, Massachusetts DOT, presented the first issue for discussion:  
Our

Federal Agreement and implementing legislation refer to the "INTERSTATE SYSTEM", the "FEDERAL-AID PRIMARY HIGHWAY SYSTEM" and the "FREEWAY

PRIMARY HIGHWAY SYSTEM". It appears that many other Federal Agreements use the same terms. Today, other than "INTERSTATE SYSTEM", these phrases

are no longer used. How should they now be interpreted and to what roads

should the agreement now apply in the absence of an amendment to the agreement? Should the agreement be amended? Cathy O'Hara, FHWA, responded that 23 USC 131(t) sets forth the definition of primary system.

It has been interpreted by FHWA to include the primary system as including

the interstates, National Highway System, and all federal aid primary (FAP) highways as of 6-1-91. She stated that each state should have a map identifying the 6-1-91 FAP system. If there is an expansion or extension of a particular 6-1-91 route, unless it is part of the interstate or NHS system, the expansion or extension is not subject to control under HBA. Bill stated that under MA law, MADOT does not have authority to regulate NHS route. John Garner, FLDOT, indicated that FL had laws changed to include NHS and that, if state statutes not changed, the state might have jurisdictional problem in regulating NHS routes. Jimmy Isonhood, MSDOT, indicated that MSDOT also had changed its state law

to include NHS routes. Jan Strough, Idaho DOT, mentioned that even if old

FAP transferred to city jurisdiction, DOT still have to control OAC.

Kerry Yoakum, Ohio DOT, indicated that ODOT is in a lawsuit regarding the

definition of primary system of 6-1-91. ODOT lost on the first judicial level. ODOT appealed and it was heard in December by the Supreme Court of

Ohio. In the meantime, ODOT changed statute to include 6-1-91. It was suggested that NAHBA needs to explore ways to motivate those in

Washington

to initiate changes about the 6-1-91 problem. Jimmy indicated that subject would be part of the 2007 conference agenda.

2. The next item of discussion was introduced by William J. Bickley, Jr., Executive Director, Outdoor Advertising Division, Massachusetts DOT. He inquired whether any state's outdoor advertising agency had been given the authority to impose administrative penalties? And how the enforcement was

achieved? Jimmy Isonhood, MSDOT, indicated that MSDOT uses injunctive relief. John Garner, FLDOT, indicated that, if on right-of-way, then fines assessed. But, if off-right-of-way, then revoke the permit. If illegal, then take down the sign and seek reimbursement from sign owner. However, John indicated that although fines are assessed, the ability to collect them is limited. Bill Light, WV DOT, indicated he can jail offenders because it is a misdemeanor offense. Keith Melvin, SCDOT, stated he freezes issuance of new permits statewide until the violations end and has successfully collected fines. FLDOT stated that in order to revoke permit, first need final adjudication of the matter.

3. Jean Todd, Highway Beautification Supervisor, Right-of-Way

Division

Nebraska Department of Roads asked "what have other states experienced when it comes to reducing the size of nonconforming signs, and do they have rules & regulations addressing this." MSDOT has new regulations that reduce the sign size, but such regulations are only effective on signs erected after that date (only proactive). FLDOT has rules for reducing nonconforming signs if it removes the nonconformity or is required by local government. SCDOT allows nonconforming signs to be reduced in size, never increased in size. Arizona, Florida and Utah allow change to the nonconforming support structure. Missouri allows change to bracing. Florida, Georgia and Arizona allow replacement in-kind. FHWA indicated that 23 CFR 750.707(5) allows reasonable repairs but requires nonconforming sign to remain substantially the same. FHWA says states have a lot of leeway in determining reasonable repairs, but want the states to be responsible for nonconforming signs. FHWA indicated that congress does not want FHWA to dictate what are reasonable repairs.

4. Status on the FHWA documents (Jimmy Isonhood - Mississippi DOT) - Jimmy indicated that converting the FHWA documents to PDF format is finished. He is now meeting with computer technicians to link the documents to the NAHBA website.

5. Proposed legislation by Congress (Jimmy Isonhood - Mississippi DOT). Jimmy announced that the proposed legislation failed in Congress.

6. Update on Assessment Report (Jerry Soloman - FHWA) - Jerry indicated that the assessment has been completed. It was published in the Federal Register on March 2, 2007 (Fed Reg. Vol. 72#4) with a summary and a request for public comments due by May 1, 2007. Docket number for comments is: FHWA-2006-25031.

7. Outdoor Advertising Training Course (Marshal Wainright - FHWA) - The NHI training course on OAC is in its final stages. The draft course was completed in April. Thereafter, 21 random OAC persons took the course to review it. Comments received were good. The contractor is working on the final changes. The course contains both bonus and non-bonus reviews.

It should be completed by June. No determination has been made regarding setting a fee for taking the course. NHI is to determine qualification for continuing education credit.

8. FHWA Studies scheduled in 2008 (Cathy O'Hara - FHWA). A time-line for the study has been established by FHWA. FHWA is now reviewing cost-sharing methods. At this point, the study is limited by its budget and FHWA has to determine most effective use of the limited funds. There are two potential studies: (1) Safety Effect of Electronic Signs on Driver Attention, and (2) Impact on OAC on Economic Surrounding Areas. Regarding the safety study, it was suggested that it needs to concentrate on brightness and speed of change.

9. NAHBA Annual Meeting Update (Jimmy Isonhood - Mississippi DOT). Jimmy

advised the conference has been set for August 19-22, 2007 in Jackson, Mississippi. The field trip will be to Vicksburg and casinos. More information on the conference can be found on the NAHBA website at [www.NAHBA.org](http://www.NAHBA.org).

There being no other items to discuss, the teleconference was adjourned at 3:30 pm.

/s/ Barbara Wessinger  
Wessinger, Past Chair

Barbara