

NAHBA
Minutes of Quarterly Teleconference
April 27, 2005

The NAHBA Quarterly Conference was held on Tuesday, April 27, 2005, commencing at 2:00 p.m. (EDST) with the following participants:

Janis Gramatins, FHWA/Washington
Bob Block – FHWA/Washington
John Turpin – FHWA/Washington
Becky Bennett – FHWA/Washington
Marshall Wainright – FHWA/Washington
Olivia Michael – FHWA/Louisiana
Barbara Wessinger, South Carolina DOT
Keith Melvin, South Carolina DOT
Jimmy Isonhood, Mississippi DOT
Juanice Hagan, Florida DOT
Lynn Holschuh, Florida DOT
Lyle McMillan – Utah DOT
Scott Taylor – Missouri DOT
Sarah Lee, Ohio DOT
Kerry Yoakum, Ohio DOT
Rod Boehm, Tennessee DOT
Connie Gilliam, Tennessee DOT
Chad LaRue – Louisiana DOT
Jean Todd, Nebraska DOT
Hal Stevenson – Stevenson Outdoor

AGENDA

- (1) How does the status of “Grandfathered” and “Nonconforming” affect the value of billboards in condemnation suits? – question presented by Jimmy Isonhood

Discussion: Tennessee, South Carolina and Florida expressed that their states do not distinguish between conforming and nonconforming signs when establishing value in condemnation suits because the permit entitles the permit holder to its bundle of rights. No states participating had a differing opinion.

- (2) If the lease is terminated on an otherwise legal billboard, is the state authorized to remove said billboard with no compensation at all? What if the billboard is nonconforming? – question presented by Jimmy Isonhood

Discussion: Utah, South Carolina and Florida declared that in their states the permit holder must have a valid lease at all times. Failure to maintain the lease is grounds for the cancellation of the permit.

- (3) Are the owners of nonconforming billboards entitled to formal notice that their board has become nonconforming? If notice is not given how is enforcement affected? If we can't give notice, can we refuse to allow them to rebuild the board? What if the board is taken down voluntarily to accommodate the land owner's use with expectation of rebuilding the board. They take this action without knowing that their board is nonconforming. It seems that they would be entitled to some notice – question presented by Jimmy Isonhood

Discussion: States participating in the teleconference were in agreement that the status of a permit is always subject to change and that most states do not provide notice to the permit holder of conformity changes on the books of the Department. South Carolina and Florida have a disclaimer on their Internet web pages indicating that conformity status is subject to change and the Department should be notified if the status of a permit is needed; Kentucky shows status at permitting but not thereafter; and Ohio and Florida indicate status on permit renewal billings. Kentucky indicated it does notify of conformity changes in some situations but not on an on-going basis.

- (4) What actions do States take regarding blank billboards – question presented by Jimmy Isonhood

Discussion: States indicated that some form of warning is given to the permit holder if a billboard is blank for specified periods of time. South Carolina indicated it had attempted to remove if the billboard was blank for six months, however, they backed off their policy when the industry asked more time to improve inventory issues. Mississippi indicated if a business goes out of business the sign has to come down within 6 months; however, this provision has not been tested in court.

- (5) What types of aggressive action have other DOTs taken to control/inventory junkyards on Interstates and FAPs – question presented by Keith Melvin

Discussion: Ohio indicated that the Public Safety Office regulates junkyards in their State, and Mississippi stated it has recently been successful in following through with injunctions. Kentucky indicated that it has had several selective enforcement charges filed against it for actions taken against junkyards. FHWA indicated that federal scenic funds can be utilized for junkyard regulation on the Interstates; however, the funding for such purpose is limited and should be worked through the Division Offices.

- (6) What experience have other states had with Smart Boards? If other states are allowing Smart Boards, what regulatory changes had to be made, if any? If a state allows Smart Boards, do they also allow tri-vision signs? – question presented by Chad LaRue

Discussion: Smart Boards are TV quality screens that continually roll advertising messages. Mississippi stated it can approve new technology as it comes in; Nebraska allows but requires a 10 second static message and a 2 second change; Ohio requires these types of signs to be at least 1,000 feet from another high-tech board; Nebraska requires at least 5,000 feet between these structures; and Kentucky has no specific spacing requirements for these types of signs. Hal Stevenson commented that the prices for LED signs are becoming more affordable and it is a less expensive method of changing the message on the sign. Ohio expressed safety concerns about the lighting from the signs, particularly on rainy nights and Mississippi feels there is a need for more safety studies, particularly in measuring light coming off the boards. Barbara Wessinger reminded everyone that the NAHBA website provides a link to a study that was done in Virginia and FHWA indicated its web site also has links to safety studies that have been done. Several states indicated they would like to see this as a topic of discussion at this year's NAHBA Conference and Barbara said she would see that it was included in the New Technology session.

(7) Has there been any new FHWA correspondence in regards to tri-vision since the mid-1990's? – question presented by Chad LaRue

Discussion: Formal correspondence was given in June of 1996. States must conform to the terms of their Federal-State Agreements.

(8) What is the status of the South Carolina nonconforming sign upgrade pilot program? – question presented by Chad LaRue and addressed by Keith Melvin

Discussion: South Carolina has received approval from its stakeholders of a pilot project that would allow for the reduction of nonconforming signs in exchange for an upgrade to a structure on I-95 or I-26. Moving costs are capped and no other payments are received by the sign owners who participate in the pilot. Keith mentioned that the FHWA local office is very supportive of the pilot, and the proposal will be submitted to FHWA soon. South Carolina remains positive that the pilot will be approved for implementation. Janis indicated that FHWA is studying the issue of nonconforming pilot projects and is working on guidance for the states.

(9) What is the status of the 10% penalty against Georgia

Discussion: No one from Georgia was on-line to discuss, but Janis indicated that Georgia is working on amending their rules to come into compliance.

(10) Has FHWA ever approved a state's request to turn over local control of its ODA program to a municipality? – question by Sarah Lee

Discussion: Janis reminded everyone that under the Federal-State Agreements the States are responsible to see that control is maintained. FHWA will come back to the State for regulatory control. While local controls may control in lieu of State control,

the States are ultimately responsible. Bob Black discussed that even if a City becomes certified, its control must be at least as strict as State control.

Participants were reminded of the NAHBA Conference dates and the fact that the registration form is posted on the NAHBA website.

With there being no additional items for discussion, the teleconference was adjourned.

Juanice M. Hagan
Secretary, NAHBA