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Filed by email to: [consultation@doj.gov](mailto:consultation@doj.gov)

Consultation Policy Comments  
Department of the Interior  
Room 5129 MIB  
1849 C Street, NW  
Washington, DC 20240

RE: Policy on Consultation with Indian Tribes

Dear Madam or Sir:

I am writing this letter as a concerned citizen of a federally recognized Indian tribe and an attorney practicing in the field of federal Indian law, and not on behalf of any of our firm's tribal clients. While I commend the Department of the Interior on the adoption of a Policy on Consultation with Indian Tribes (Policy), I am concerned about one point which I think needs clarification. Briefly, the proposed Policy may result in some confusion because it does not distinguish between the general government-to-government consultation that is the subject of the Policy and consultation with tribes that is required by statute in certain specific contexts, particularly the National Historic Preservation Act (NHPA) and the Native American Graves Protection and Repatriation Act (NAGPRA).

Specifically, section 101(d)(6) of NHPA, 16 U.S.C. § 470a(d)(6), provides that each federal agency, in carrying out its responsibilities under section 106 of the Act, 16 U.S.C. § 470f, "shall consult with any Indian Tribe or Native Hawaiian organization that attaches religious and cultural significance to" any historic property that may be affected by a proposed federal undertaking. This requirement is implemented through numerous provisions in the regulations issued by the Advisory Council on Historic Preservation. 36 C.F.R. part 800.

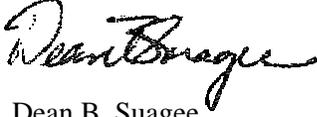
Section 3(c) of NAGPRA, 25 U.S.C. § 3002(c), provides that Native American human remains or cultural items can be excavated or removed from federal land only "after consultation with" the "appropriate" Indian Tribe or Native Hawaiian organization. This requirement is implemented through regulations codified at 43 C.F.R. part 10.

I am concerned that, unless the proposed policy is clarified, DOI Bureaus and Offices may assume that, if they have complied with the Policy, they need not comply with the more specific consultation requirements of NHPA and NAGPRA. I recommend that at the end of the final paragraph in section II, "Guiding Principles," the following sentence be added:

Compliance with this policy does not relieve Bureaus and Offices from their legal responsibilities pursuant to specific requirements to consult with Indian tribes, including the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.

Thank you for your consideration of this recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Suagee". The signature is fluid and cursive, with the first name "Dean" and last name "Suagee" clearly distinguishable.

Dean B. Suagee