



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

July 18, 2011

Mr. Kenneth Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W., Room 5129 MIB
Washington D.C. 20240

RE: Department of Interior Request for Comments pertaining to the Policy on Consultation with Indian Tribes

Dear Mr. Salazar,

The Yurok Tribe (“Tribe”) respectfully submits these comments in response to the Department of the Interior’s (“DOI”) request for comments pertaining to the “Policy on Consultation with Indian Tribes,” published in the Federal Register vol.76, No. 95, pg. 28446-28449, Tuesday, May 17, 2011.

The Tribe strongly supports the legal obligation for Federal agencies to effectively engage with federally recognized Indian tribes on a government-to-government basis requisite by the U.S. Constitution, Executive orders, treaties, statutes, and policies. Further, the Tribe advocates for the consultation process to directly involve decision makers from both tribal leadership as well as participation by cabinet level officials. Specifically, the DOI has a significant responsibility throughout its Agency to carry out these federal trust responsibilities in the planning, development and implementation of federal policy as it applies to Tribes and tribal communities.

There are three basic principles in which the Tribe would like to provide for the DOI to consider regarding the proposed “Policy on Consultation with Indian Tribes”. These principles include consultation commitments from the cabinet level position of the Secretary, secondly, on-site visits to the respective Indian lands and reservations to get a first-hand perspective of challenges presented to northern California tribes, and thirdly, the essential need for time appropriate follow up of the consultative action to be taken both by the DOI and by tribes. As a result of DOI consideration these three principles, the “Policy

on Consultation with Indian Tribes” will be truly effective and meaningful in the decision making process as well as implementation of appropriate federal policy.

First, the consultation process must include the participation of the leadership of the DOI, specifically the position of the Secretary. The protocol of participating Tribal Chairpersons and Council-members should reflect the appropriate cabinet level commitment as well as senior management staff. In doing so, each tribal leader and the Secretary’s engagement will foster the appropriate action requisite to implement mutually agreeable policies between tribes and the federal government.

Secondly, consultation should include the appropriate acknowledgement and importance of field visits to Indian lands and reservations. This is particularly important for the Tribe and other California tribes because of the unique legal and policy issues that arise from tribal, state and federal cooperation. The Tribe recognizes that these field visits have been effective for federal policy makers, the Secretary and senior staff that may not be familiar with the specific issues confronting California tribes in areas such as social services, law enforcement, tribal courts, education and the protection of natural resources. Specifically, members of the DOI staff members and other agencies that have visited the Yurok Indian reservation were able to see firsthand the truly unique issues that the Tribe faces. Most importantly, as a result, appropriate technical and policy actions were developed to address and resolve the issues confronting the Tribe.

Thirdly, the a critical aspect of the proposed DOI “Policy on Consultation with Indian Tribes” should provide for the requisite follow up actions by the DOI pertaining to the consultation occurring between the DOI and tribes. The recommended time frame should be limited to two (2) weeks. This practical recommendation is aimed at providing both the DOI and the Tribe the opportunity to identify the actions and responsibilities to be taken on by both the DOI and consulted tribes. This time frame also provides a variable of accountability mutually shared by both the DOI and tribes.

Further, find below the specific recommendations regarding the technical considerations to be included in the proposed “Policy on Consultation with Indian Tribes.”

1. Pg. 28446: II. Guiding Principles, fourth sentence, insert “signatory authority” to read, “The appropriate Departmental officials are knowledgeable about the matters at hand, are authorized to speak for Interior, have delegated authority and signatory authority of the disposition and implementation of an action.”
2. Pg. 28447: V. Training, insert part E. to read, “E. Encourage training opportunities hosted by Tribes to engage federal agency staff to be trained by a host Tribe in a particular area of specialty.”
3. Pg. 28447: VI. Innovative and Effective Consultation Practices insert part E. to read, “E. Plan specific delegation visits to particular areas of importance for the protection of tribal natural resources.”
4. Pg. 28448: C. Guidelines for Response to Request for Consultation, insert last sentence to read, “The TGO/s will respond within thirty (30 days).”

The Tribe truly values the effective and efficient actions that the consultation process by the DOI can provide. The Tribe appreciates this opportunity to provide the comments above and will strive to continue the cooperative working relationship with the DOI and its agency teams. We look forward to continuing the effective work with you and feel free to contact us anytime if you should have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "T. P. O'Rourke, Sr.", with a stylized flourish at the end.

Thomas P. O'Rourke, Sr.
Chairman
Yurok Tribe