



POLICY & PROCEDURE

NUMBER: 043

CONTACT AREA:
Executive

TITLE:
Tribal Consultation

EFFECTIVE DATE:
September 2, 2015

APPROVED: 
Jim Branham, Executive Officer

PURPOSE

The Sierra Nevada Conservancy (SNC) is a conservancy under the California Natural Resources Agency (Agency) and as such, has prepared this consultation policy consistent with the Agency's policy adopted on November 20, 2012.

The mission of the SNC is to initiate, encourage, and support efforts that improve the environmental, economic and social well-being of the Sierra Nevada Region, its communities, and the citizens of California. California Native American Tribes (Tribes) have sovereign authority over their members and territories, and a unique relationship with California's resources. All Tribes have distinct cultural, spiritual, environmental, economic, and public health interests, and unique traditional cultural knowledge about California resources.

The purpose of this policy is to ensure effective government-to-government consultation between the SNC and Tribes to further this mission and to provide meaningful input into the development of policies, programs, projects, plans, property decisions, and activities that may affect tribal communities. The goal of the policy is to engage in the timely and active process of respectfully seeking, discussing, and considering the views of Tribes in an effort to resolve concerns of as many parties as possible.

BACKGROUND

On September 19, 2011, Governor Edmund G. Brown Jr., issued Executive Order B-10-11, which provides, among other things, that it is the policy of the administration that every state agency and department subject to executive control to implement effective government-to-government consultation with California Indian Tribes.

DEFINITION

This policy is not intended to replace or supplant obligations mandated by federal law. This policy defines provisions for improving SNC consultation, communication and collaboration with Tribes to the extent that a conflict does not exist with applicable law or regulations.

This policy anticipates a deliberate process that aims to create effective collaboration and informed decision making. All parties in the process should promote respect, shared responsibility, and an open and free exchange of information. The inclusion of Tribes and tribal communities throughout the decision-making process will promote positive, achievable, durable outcomes.

This policy is intended solely for the guidance of employees of the SNC and does not extend to other governmental entities, although the SNC encourages cooperation, education, and communication on the part of all governmental entities. This policy is not intended, and should not be construed, to define the legal relationship between the SNC and California Tribes and tribal communities. This policy is not a regulation, and it does not create, expand, limit, waive, or interpret any legal rights or obligations.

For purposes of this policy, the following definitions shall apply:

Tribe: Refers to a California Native American Tribe.

Federally Recognized Tribe: A tribal entity that is recognized as having a government-to-government relationship with the United States; these entities are listed on the Federal Register and the current list is posted on the Governor's Office of the Tribal Advisor's website.

Non-Federally Recognized Indian Tribe: Those Tribes that are not Federally recognized and are on the list maintained by the Native American Heritage Commission.

California Indian Tribe: Refers to a federally-recognized California Indian Tribe, as listed on the Federal Register. Only in situations involving cultural resources will a non-federally recognized California Native American Tribe that is on the list maintained by the Native American Heritage Commission (NAHC) be included in this definition. The NAHC will provide a list of non-federally recognized California Native American Tribes for each instance.

Tribal Leaders: Refers to elected officials of Indian Tribes and their designees.

Tribal Sovereignty: Refers to the unique political status of federally-recognized Indian Tribes. Federally-recognized Indian Tribes exercise certain jurisdiction and governmental powers over activities and Tribal members within its territory. Some of these powers are inherent, and some have been delegated by the United States.

Existing limitations on Tribal sovereignty are defined through acts of Congress, treaties, and federal court decisions.

PROCESS

Outreach: The SNC will identify the Tribes to consult at the earliest possible time in the planning process, and allow a reasonable opportunity for Tribes to respond and participate. The SNC is responsible for meaningful consultation with Tribes that promote regular and early consultation through communication and collaboration.

The SNC shall disseminate public documents, notices, and information to Tribes. The documents, regarding the topic for consultation, shall be made readily accessible to tribes and be provided at the earliest opportunity. Notification should include sufficient detail of the topic to be discussed to allow tribal leaders an opportunity to fully engage in a substantive dialogue.

The SNC shall conduct meetings, outreach and workshops at times and locations that facilitate tribal participation as much as possible. The SNC will be open to communication opportunities initiated by Tribes and will seek opportunities for collaboration by communicating regularly with Tribes. The SNC will seek to protect any confidential information provided to the fullest extent allowed by the law.

Tribal Liaisons: The SNC will designate a tribal liaison, or liaisons, to serve as the central point of contact for Tribes. The role of the tribal liaison will be to ensure that outreach and communication efforts are undertaken in a manner consistent with this policy. Tribal liaisons should be encouraged and empowered to develop ongoing and regular communication with tribal representatives. Where possible and where consistent with administration policy and guidance, tribal liaisons should use these ongoing relationships to inform tribes of issues of interest.

Tribal Liaison Committee: The SNC-designated tribal liaison will participate on the CNRA Tribal Liaison Committee consisting of state department tribal liaisons that will meet on a regular basis in the Office of the Secretary to review tribal consultation efforts and opportunities, and share information.

Access to Contact Information: The SNC will utilize the contact list from the Governor's Tribal Advisor for the federally recognized Tribes and Native American Heritage Commission contact list for non-federally recognized Tribes.

Training: The SNC will provide training to tribal liaisons, executive staff, managers, supervisors, and employees on implementation of this policy as opportunities arise and are deemed appropriate.