

## NATURAL RESOURCES AGENCY TRIBAL CONSULTATION POLICY DRAFT CIRCULATED FOR PUBLIC COMMENT APRIL 2012

### Purpose of the Policy

The mission of the California Natural Resources Agency is to restore, protect and manage the state's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all the communities and interests involved. California Native American tribes and tribal communities have sovereign authority over their members and territory, and a unique relationship with California's resources. All California tribes and tribal communities, whether federally recognized or not, have distinct cultural, spiritual, environmental, economic and public health interests.

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 and tribal communities.

The purpose of this policy is to ensure effective government-to-government consultation between the Natural Resources Agency, the departments of the Natural Resources Agency, and Native American tribes and tribal communities to further this mission and to provide meaningful input into the development of regulations, rules and policies that may affect tribal communities. It is only by engaging in open, inclusive and regular communication efforts that the interests of California's tribes and tribal communities will be recognized and understood in the larger context of complex decision-making. Each department in the Natural Resources Agency has a different statutory mandate and, in some cases, may have consultation, communication, collaboration or interaction requirements imposed on it by other laws or regulations. This policy defines provisions for improving Natural Resources Agency consultation, communication and collaboration with tribes to the extent that a conflict does not exist with applicable law or regulations. Department is defined as any department, board, commission, council or conservancy subject to executive control.

This policy anticipates a deliberate process that aims to create effective collaboration and informed decision-making where all parties share a goal of reaching a decision together. All parties in the process should promote respect, shared responsibility and

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an open and free exchange of information. The inclusion of tribes and tribal communities at all stages of the decision-making process will promote positive, achievable, durable outcomes.

This policy is intended solely for the guidance of employees of the Natural Resources Agency and its departments and does not extend to other governmental entities, although the Natural Resources Agency 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 Natural Resources Agency and its departments 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.

The secretary of the Natural Resources Agency hereby directs the agency staff and departments to undertake implementation of the policy as set forth below.

### Implementation of the Tribal Consultation Policy

1. Outreach. The agency and departments must identify the Native American tribes to consult at the earliest possible time in the planning process and allow a reasonable opportunity for tribes to respond and participate. Each department is responsible for meaningful consultation with Native American tribes that promote regular and early consultation through communication and collaboration. Each department will identify participants in the process - including the decision-makers and staff with an appropriate level of responsibility - that can ensure that tribal concerns will be brought forward.

Each department shall disseminate public documents, notices and information to California Native American tribes. The documents shall be made readily accessible to tribes. Notification should include sufficient detail of the topic to be discussed to allow tribal leaders an opportunity to fully engage in a substantive dialogue. In the event the department makes an attempt to initiate contact and does not receive a response, the department should make reasonable and periodic efforts throughout the process to repeat the invitation.



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Each department should conduct meetings, outreach and workshops at times and locations that facilitate tribal participation as much as possible. The departments will be open to communication opportunities initiated by tribes and seek opportunities for collaboration by communicating regularly with tribes. Each department should establish a mechanism to request relevant and available information, studies and data from tribes when conducting research or studies that relate to, or could impact, tribal lands or cultural resources.

2. Tribal Liaisons. Each department should designate a tribal liaison, or liaisons, to serve as the central point of contact for Indian tribes. The role of the tribal liaison will be to ensure that department outreach and communication efforts are undertaken in a manner consistent with this policy.
3. Tribal Liaison Committee. The Agency hereby designates the Natural Resources Agency Tribal Liaison Committee consisting of department tribal liaisons that will meet on a regular basis in the Office of the Secretary to review tribal consultation efforts and opportunities in the departments and share information.
4. Access to Contact Information. The agency shall work with the Native American Heritage Commission to maintain a contact list of tribal representatives from federally-recognized and non-federally recognized California tribes.
5. Training. The agency will provide training to tribal liaisons and executive staff, managers, supervisors and employees on implementation of this policy.

