CALIFORNIA natural resources AGENCY

EDMUND G. BROWN JR., *Governor*
JOHN LAIRD, *Secretary for Natural Resources*

CALIFORNIA NATURAL RESOURCES AGENCY
ADOPTION OF FINAL TRIBAL CONSULTATION POLICY

November 20, 2012

Pursuant to Executive Order B-10-11 dated September 19, 2011, the California Natural Resources Agency hereby adopts the attached Final Tribal Consultation Policy, Exhibit A.

Date: 11/20/12

John Laird
Secretary for the California Natural Resources Agency

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Baldwin Hills Conservancy • California Coastal Commission • California Coastal Conservancy • California Conservation Corps • California Tahoe Conservancy
Coachella Valley Mountains Conservancy • Colorado River Board of California • Delta Protection Commission • Delta Stewardship Council • Department of Boating & Waterways • Department of Conservation
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Resources Recycling and Recovery • Department of Water Resources
Energy Resources, Conservation & Development Commission • Native American Heritage Commission • Sacramento-San Joaquin Delta Conservancy • San Diego River Conservancy
San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy • San Joaquin River Conservancy
Santa Monica Mountains Conservancy • Sierra Nevada Conservancy • State Lands Commission • Wildlife Conservation Board

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California Natural Resources Agency Tribal Consultation Policy

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 and unique traditional cultural knowledge about California resources.

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.

The purpose of this policy is to ensure effective government-to-government consultation between the Natural Resources Agency, its Departments of the Natural Resources Agency and Indian tribes and tribal communities to further this mission and to provide meaningful input into the development of regulations, rules, policies, programs, projects, plans, property decisions and activities 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. The goal of the policy is to engage in the timely and active process of respectfully seeking, discussing and considering the views of California Indian Tribes, Tribal communities and Tribal Consortia in an effort to resolve concerns of as many parties as possible.

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. For instance, Departments may have requirements under federal law to engage in consultation with Tribal governments. This policy is not intended to replace or supplant obligations mandated by federal law. 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 an open and free

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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 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 Indian Tribes, tribal communities and tribal consortia, minimally by contacting tribal government officials. 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. 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.

   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. The Department should seek to protect any confidential information provided to the fullest extent allowed by the law, recognizing that the Departments are subject to the California Public Records Act.

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. 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 that may not necessitate consultation, such as legislative proposals that may affect tribal communities. Tribal liaisons should make an effort to provide feedback to the tribes on how information obtained from a consultation informed the Department's decision making process.

3. Tribal Liaison Committee. The Agency hereby designates the CNRA 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 Indian Tribes.

5. Training. The Agency will provide training to tribal liaisons and executive staff, managers, supervisors and employees on implementation of this policy.

FILED
in the office of the Secretary of State
of the State of California

SEP 19 2011

By Deputy Secretary of State

Executive Department

State of California

EXECUTIVE ORDER B-10-11

WHEREAS California is home to many Native American Tribes with whom the State of California has an important relationship, as set forth and affirmed in state and federal law; and

WHEREAS the State of California recognizes and reaffirms the inherent right of these Tribes to exercise sovereign authority over their members and territory; and

WHEREAS the State and the Tribes are better able to adopt and implement mutually-beneficial policies when they cooperate and engage in meaningful consultation; and

WHEREAS the State is committed to strengthening and sustaining effective government-to-government relationships between the State and the Tribes by identifying areas of mutual concern and working to develop partnerships and consensus; and

WHEREAS tribal people, as both citizens of California and their respective sovereign nations, have a shared interest in creating increased opportunities for all California citizens.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, by virtue of the power vested in me by the Constitution and the statutes of the State of California, do hereby issue the following orders to become effective immediately:

IT IS ORDERED that the position of Governor's Tribal Advisor shall exist within the Office of the Governor;

IT IS FURTHER ORDERED that the Governor's Tribal Advisor shall oversee and implement effective government-to-government consultation between my Administration and Tribes on policies that affect California tribal communities, and shall:

- Serve as a direct link between the Tribes and the Governor of the State of California.
- Facilitate communication and consultations between the Tribes, the Office of the Governor, state agencies, and agency tribal liaisons.
- Review state legislation and regulations affecting Tribes and make recommendations on these proposals.

IT IS FUTHER ORDERED that the Office of the Governor shall meet regularly with the elected officials of California Indian Tribes to discuss state policies that may affect tribal communities.

IT IS FURTHER ORDERED that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

For purposes of this Order, the terms "Tribe," "California Indian Tribe", and "tribal" include all Federally Recognized Tribes and other California Native Americans.

This Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that it be given widespread publicity and notice.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of September 2011.

EDMUND G. BROWN JR.
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State