

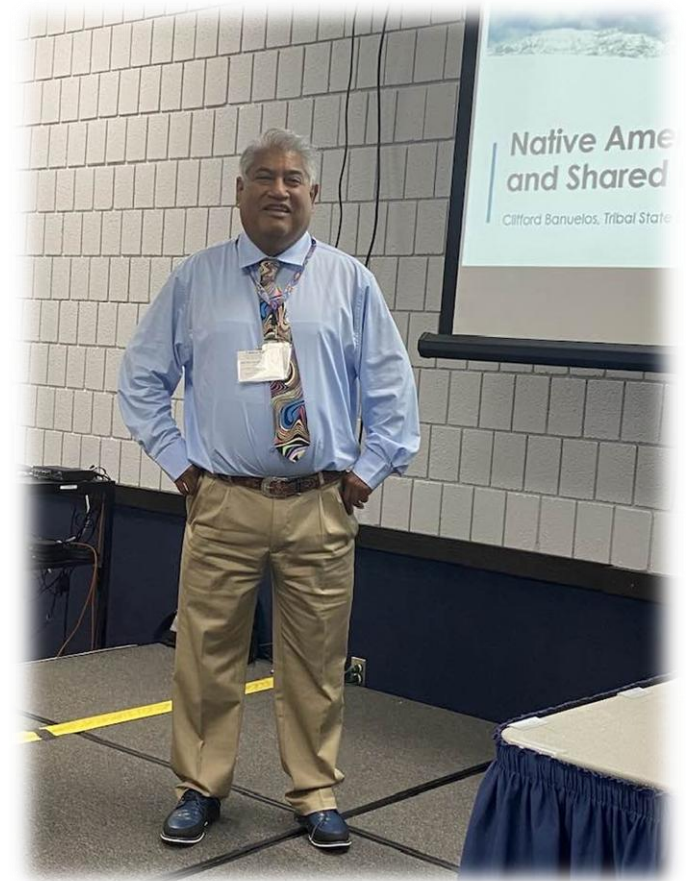


Tribal Consultation

Tribal Expectations

Agenda

- Federally Recognized Tribes Relationship with State and Federal Agencies
- Tribal Consultation Defined
- Activation of Tribal Consultation
- State and Federal Agency Objectives
- Tribal Expectations
- Questions



Cliff Banuelos, Presenter
Nevada Tribal State Liaison for
NDEP/ITCN

Federal Government and it's Relationships with Tribal Nations

- **Nation to Nation relationship rooted in the U.S. Constitution, treaties, federal statutes, and court decisions**
- **Tribal Sovereignty: authority to govern themselves, their lands, and members**
- **Federal Trust Responsibility: U.S. government holds a legally enforceable fiduciary duty to protect tribal lands, assets, resources, and treaty rights, and to provide specific health, education, and social services**
- **Political, not racial status**
- **Federal recognition**

State Government and it's Relationships with Tribal Nations

- **No state trust responsibility**
- **Recognize Tribal Sovereignty and tribes authority to govern themselves, their lands, and members**
- **Political, not racial status**
- **State tribal communication (consultation) policies**
- **Checkboarded land ownership makes it important to coordinate with tribes on land decisions**
- **Geographically closer relationship**

What is Tribal Consultation?



Nevada special tribal legislation session to help Tribes learn about the state legislative process

Tribal consultation is a formal, two-way government-to-government dialogue between federal agencies and tribal nations designed to ensure tribal views that shape policies and projects that affect them

What Initiates Tribal Consultation?

**Tribes may
also initiate
tribal
consultation**



**Any agency action with
substantial direct effects on
One or more Indian Tribes.
This can be a project, it can
be policy change, it can be
agency restructuring or
other actions**

Common Agency Objectives

- **Early and Ongoing Engagement:** Identify policy matters, regulations, or projects early in their formation—well before final decisions are locked in—to allow adequate time for tribal review.
- **Respect for Sovereignty:** Acknowledge the unique legal, political, and nation-to-nation status of federally recognized tribes and uphold federal trust responsibilities.
- **Accessible Processes:** Implement structured, convenient, and transparent participation frameworks that respect tribal resource constraints and provide advance notice (typically at least 30 days).
- **Meaningful Dialogue and Consensus:** Strive for consensus or mutually desired outcomes by engaging appropriate federal and tribal officials who hold decision-making authority.
- **Accountability and Feedback:** Provide clear follow-up communication—such as written responses or reports—detailing how tribal input and traditional knowledge were incorporated into the final federal decision

TRIBAL EXPECTATIONS FOR CONSULTATION

**How do Tribes' expectations differ from
federal agency objectives?**

Tribal Expectations

Early Engagement: Consultations must start early in the decision-making process, before choices are final or treated as a mere checklist item.

Example, before budgets and designs are complete

Tribal Expectations

Advanced Notice: Agencies must provide written notice to tribes at least 30 days before a scheduled session, including detailed topic descriptions.

This is when a Tribal Liaison and an assigned designee for the Tribe, coordinate on the agenda and topics to be discussed and roles and responsibilities

Tribal Expectations

Leader-to-Leader Dialogue: Meetings require participation from official federal decision-makers and elected tribal leaders (or their designated representatives).

Normally, the head of a regional department, contacts the Tribe and initiates communication. The Tribe can tell the agency that someone at a decision-making level act as the primary representative for the agency. This would be the RA for EPA Region 9.

Tribal Expectations

All meetings are documented and roles and responsibilities are clearly defined in writing, and action items are assigned to specific people or departments.

It may be that the Tribe requests closed door meetings but internal notes are taken in those meetings.

Items the Tribe brings up must have written answers to those items.

Tribal Expectations

Tribal consultation is really only consultation when the Tribe has the ability to change or influence the outcome of the action.

– Catherine Zingg, Tribal Policy Director, Tribal Energy Alternatives

Tribal Expectations

Consultation is a process and not only meetings.

Understand the difference between information sharing vs. tribal consultation

Tribal Expectations

The Tribe may want to write their own tribal consultation policy, either an over-arching one for all matters, or one specific to the action. They may also want to write an ordinance specific to the action.

Federal agencies all have some sort of policy they follow when engaging with a Tribe; know it.

Tribal Expectations

The Tribe must agree when tribal consultation begins, is in process, and ends.

It may be important to continue communication with the federal agency after the final decision.

The roles of contractors should also be clearly defined with the agency.

Tribal Expectations

Agencies look at what's required by law, and will focus on a specific project area, and not the surrounding environment unless a specific TCP not on federal trust land is connected to the Tribe.

Do not think that agencies will act in interest for the Tribe for areas that are not on tribal federal trust land, under any federal administration.

Questions?



Thank You

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Site visit to proposed lithium mine in Spring Valley, NV