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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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Native American Policy for the U.S. Fish and Wildlife Service

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a draft policy for public notice and comment.

SUMMARY: The Fish and Wildlife Service (Service) issues this draft Native American policy for public comment. The purpose of this policy is to further the United States’ trust responsibility to Indian tribes by establishing a framework on which to base our continued interactions with federally recognized tribes as well as interactions with Alaska Native Corporations. The policy recognizes the sovereignty of federally recognized tribes; states that the Service will work on a government-to-government basis with tribal

governments; and includes guidance on co-management, access to and use of cultural resources, capacity development, law enforcement, and education.

DATES: The Service will accept public comment through [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: The draft Native American policy is available at <http://www.fws.gov/policy/draft510fw1.pdf>. The existing policy is available in the Fish and Wildlife Service Manual at <http://www.fws.gov/policy/native-american-policy.pdf>. To submit comments, please mail or email them to Scott Aikin (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Scott Aikin, Native American Programs Coordinator, by mail at U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, OR, 97232; or via email at scott_aikin@fws.gov.

SUPPLEMENTARY INFORMATION:

Introduction

We are publishing this draft Native American policy, which is available at <http://www.fws.gov/policy/draft510fw1.pdf>.

When it becomes final, we will incorporate the policy in Part 510 of the Fish and Wildlife Service Manual. The purpose of the policy is to articulate principles and serve as a framework for government-to-government relationships and interactions between the

Service and federally recognized tribes to conserve fish and wildlife and protect cultural resources. The policy includes guidance on:

- The relationship between the Service and federally recognized tribes, inter-tribal organizations, including Alaska Native Organizations (ANO), and Alaska Native Claims Settlement Act (ANCSA) corporations,
- Service employee responsibilities,
- Government-to-government consultation and relations,
- Communication,
- Co-management,
- Tribal access to Service lands and Service-managed resources for cultural and religious practices,
- Tribal cultural use of plants and animals,
- Law enforcement,
- Training and education,
- Capacity building and funding, and
- Guidance for implementing and monitoring the policy.

This policy is not meant to stand on its own. To implement this policy, the Service will update its *U.S. Fish and Wildlife Service Tribal Consultation Handbook* and develop training so that Service employees will be able to better perform duties related to this policy.

Draft Policy

We recognize that when the Service and tribes work together on resource matters, our longstanding relationship is strengthened and resources are better served. This policy

provides guidance on recognition of tribal sovereign status, Service responsibilities, and opportunities for the Service and tribes to work together toward natural and cultural resource conservation and access. The purpose of this policy is to provide Service employees with guidance when working with recognized tribes and other entities such as Alaska Native Organizations and Corporations.

Section 1 of this policy recognizes the unique relationship that Federal governmental agencies have with federally recognized tribes. It explains that while this is a nationwide policy, the Service maintains flexibility for Service Regions and programs to work more appropriately with the tribes and ANCSA corporations.

Section 2 includes the definitions of terms used in the policy.

Section 3 lists the authorities under which the Service is able to take the actions described in the policy.

Section 4 describes the responsibilities of employees at all levels of the Service to carry out this policy.

Section 5 recognizes the U.S. Government's trust responsibility toward federally recognized tribes, tribes' sovereign authority over their members and territory, the tribes' rights to self-govern, and that government-to-government communication may occur at various levels within the Service and the tribes.

Section 6 describes communication, consultation, and information sharing between the Service and tribes.

Section 7 sets out a range of collaborative management opportunities and establishes principles of co-management where tribes and the Service have shared responsibility.

Section 8 recognizes that, for meaningful cultural and religious practices, tribal members may need to access Service lands and use plants and animals for which the Service has management responsibility.

Section 9 recognizes tribal law enforcement responsibilities for managing Indian lands and tribal resources and encourages cooperative law enforcement between the Service and tribes.

Section 10 invites tribal governments to work with the Service to develop and present training for Service employees. It also makes available Service technical experts to help tribes develop technical expertise, supports tribal self-determination, encourages cross-training of Service and tribal personnel, and supports Native American professional development.

Section 11 establishes monitoring and implementation guidance for the policy.

Section 12 describes the policy's scope and limitations.

Background and development of this draft policy

On June 28, 1994, the U.S. Fish and Wildlife Service (Service) adopted its Native American Policy (available at <http://www.fws.gov/policy/native-american-policy.pdf>) to guide the Service's government-to-government relations with federally recognized tribal governments in conserving fish and wildlife resources and to "help accomplish its mission and concurrently to participate in fulfilling the Federal Government's and Department of the Interior's trust responsibilities to assist Native Americans in protecting, conserving, and utilizing their reserved, treaty guaranteed, or statutorily identified trust assets."

In July 2013, the Service convened a Native American Policy Team to review and update the policy. The Native American Policy Team is comprised of Service representatives from its Regions and programs. In addition, the Service invited all federally recognized tribal governments across the United States to nominate representatives to serve on the team. A total of 16 self-nominated tribal representatives from all of the major Regions across the country joined the team to provide input and tribal perspective.

Tribal representatives from the following tribal governments and organizations participated in a series of meetings with Service representatives to review and update the policy: Cherokee Nation, Chugach Regional Resources Commission, Confederated Tribes of Grand Ronde, Eastern Band Cherokee Indians, Fond du Lac Band of Lake Superior Chippewa, Gros Ventre and Assiniboine of Fort Belknap, Great Lakes Indian Fish and Wildlife Commission, Muckleshoot Indian Tribe, Native Village of Emmonak, Navajo Nation, Oglala Sioux Tribe, Penobscot Indian Nation, Quinault Indian Nation, San Manuel Band of Serrano Mission Indians, Central Council of Tlingit & Haida Indian Tribes of Alaska, and Yurok Tribe. Varying perspectives were shared on a wide range of issues including sovereignty, co-management, law enforcement, and trust responsibilities, among others. Substantial focus and attention was given to improving the implementation and accountability aspects of the policy.

Although Service and tribal team members took part in writing the draft, full agreement was not possible on every issue and some differences remain. In November 2014, the Yurok Tribe withdrew from the Service's Native American Policy Team. Other tribal

representatives have continued to participate in an effort to work out differences and make further improvements to the policy.

In November 2014, the Service invited federally recognized tribal governments in each of its Regions and Alaska Native Corporations to consult on a government-to-government basis. The Service provided an early working draft of the updated policy for their review and input. A total of 23 of the tribal representatives submitted written comments to further develop and refine the draft updated policy.

From December 2014 to April 2015, the Service also held 24 consultation meetings and webinars within the Regions and nationally. Representatives from approximately 100 tribes attended these meetings. In March 2015, the Service revised the working draft of the updated policy and distributed it for internal Service review throughout all levels, Regions, and programs within the agency. We incorporated feedback from the internal Service review and additional comments received from tribal governments into this draft updated Native American Policy.

Open Comment Period

While this publication opens the 30-day public review period, we also invite and encourage tribes and Alaska Native Corporations (ANCs) to continue to review and submit comments. The Service's invitation to federally recognized tribal governments to consult on a government-to-government basis regarding development of this updated Native American Policy continues until 30 days after this Federal Register notification.

Comments from local, State, and Federal government agencies; federally recognized tribal governments; inter-tribal organizations, non-federally recognized tribal governments; ANCSA corporations; and the general public are welcome.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 24, 2015.

James W. Kurth,

Acting Director,

U.S. Fish and Wildlife Service.

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