980 NINTH STREET, SUITE 1500
SACRAMENTO, CALIFORNIA 95814
HTTP://DELTACOUNCIL.CA.GOV
(916) 445-5511

DELTA STEWARDSHIP COUNCIL

A California State Agency

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DELTA STEWARDSHIP COUNCIL
ADOPTION OF FINAL TRIBAL CONSULTATION POLICY

~~March 1, 2014~~
May 15, 2015

Pursuant to Executive Order B-10-11 dated September 19, 2011, the Delta Stewardship Council hereby adopts the amended Final Tribal Consultation Policy.

Date: 6/30/15

JRP

Jessica R. Pearson
Executive Officer, Delta Stewardship Council

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Delta Stewardship Council Tribal Consultation Policy

Purpose of the Policy

The mission of the Delta Stewardship Council (Council), as outlined in the Delta Reform Act of 2009, is to further the state mandated coequal goals for the Delta through the development, adoption, and implementation of a Delta Plan. "Coequal goals," as stated in the Act, means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The law further requires that the coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

California Native American Tribes and tribal communities have sovereign authority over their members and territory, and a unique relationship with the Delta and 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 subject to executive control will 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 Council and Indian tribes and tribal communities 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 and tribal communities in an effort to resolve concerns of as many parties as possible.

This policy is not intended to replace or supplant obligations mandated by federal law. This policy defines provisions for improving Council 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 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 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 Council and does not extend to other governmental entities, although the Council 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 Council 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 Executive Officer of the Delta Stewardship Council hereby directs the Council's staff to undertake implementation of the policy as set forth below.

Implementation of the Tribal Consultation Policy

1. *Outreach*: The Council 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. The Council is responsible for meaningful consultation with Native American tribes that promote regular and early consultation through communication and collaboration. The Council 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.

   The Council shall disseminate public documents, notices and information to California Indian tribes and tribal communities, 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 Council makes an attempt to initiate contact and does not receive a response, the Council should make reasonable and periodic efforts throughout the process to repeat the invitation.

   The Council should conduct meetings, outreach and workshops at times and locations that facilitate tribal participation as much as possible. The Council will be open to communication opportunities initiated by tribes and seek opportunities for collaboration by communicating regularly with tribes. The Council 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 Council should seek to protect any confidential information provided to the fullest extent allowed by the law, recognizing that the Council is subject to the California Public Records Act.

2. *Tribal Liaisons*: The Council 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 the Council's 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 Council's decision making process.

3. *Tribal Liaison Committee*: The Council's tribal liaison(s) shall also meet on a regular basis with their counterparts from the California Natural Resources Agency. The CNRA has a Tribal Liaison Committee consisting of agency department tribal liaisons that regularly review tribal consultation efforts and opportunities within their departments and share information.

4. *Access to Contact Information*: The Council 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 Council will provide training to tribal liaisons and executive staff, managers, supervisors and employees on implementation of this policy.