



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 15 2015

Office of  
International and Tribal Affairs

Re: Notification of Consultation and Coordination on EPA's guidance: *EPA Policy on Consultation and Coordination with Indian Tribes: Draft Guidance for Discussing Tribal Treaty Rights*.

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally recognized tribes (tribes) on how EPA will discuss tribal treaty rights during tribal consultations under the *EPA Policy for Consultation and Coordination with Indian Tribes*. EPA is proposing development of a guidance on when and how EPA would raise questions about treaty rights, and as a guide for discussions when tribes raise treaty rights concerns during tribal consultation under the Consultation Policy. The draft guidance, *EPA Policy on Consultation and Coordination with Indian Tribes: DRAFT Guidance for Discussing Tribal Treaty Rights* is enclosed.

EPA's anticipated timeline for this consultation and coordination is **August 17, 2015 through October 16, 2015**. EPA invites you or your designated consultation representative(s) to participate in this process.

In December 2014<sup>1</sup>, EPA Administrator Gina McCarthy commemorated the 30<sup>th</sup> anniversary of the 1984 EPA Indian Policy and issued a memo regarding the importance of treaty rights and EPA's work, stating:

Under the U.S. Constitution, treaties have the same legal force as federal statutes. And the United States' government-to-government relationship with and trust responsibility to federally recognized Indian tribes reinforces the importance of honoring these treaty rights. As such, the EPA has an obligation to honor and respect tribal rights and resources protected by treaties. While treaties do not expand the EPA's authority, the EPA must ensure its actions do not conflict with tribal treaty rights. In addition, EPA programs should be implemented to enhance protection of tribal treaty rights and treaty-covered resources when we have discretion to do so.

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<sup>1</sup> <http://www.epa.gov/tribalportal/pdf/indianpolicytreatyrightsmemo2014.pdf>

This draft Guidance was developed and is designed to establish the clear expectation that EPA should ask specific questions during tribal consultation when an action or decision will impact a specific geographic area where treaty resource rights are present. As the Agency gains more experience with proactively seeking information on treaty rights, we may develop additional documents to further our responsibilities to tribes in this area.

We would like your feedback on how to make the final Guidance as effective as possible. EPA would appreciate input on the following questions, and any additional information you would like to provide about the draft Guidance:

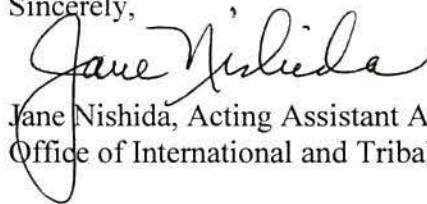
1. Does the draft Guidance further EPA's goal of learning about treaty rights that exist in areas that may be impacted by the proposed EPA action or decision?
2. Do the questions posed in the draft Guidance adequately define the scope and range of questions EPA should ask?
3. Are there other persons or groups EPA should consult with to determine whether treaty rights are present in areas that may be impacted by the proposed EPA action or decision?

EPA takes our responsibility to meaningfully consult with tribes very seriously. We encourage you to share your written comments with EPA on this draft Guidance and the questions above.

The official EPA contact person for this consultation and coordination process is Jeff Besougloff, American Indian Environmental Office. Please do not hesitate to contact Jeff ([Besougloff.jeff@epa.gov](mailto:Besougloff.jeff@epa.gov) , 202/564-0292) if you have any questions or would like to request an alternative arrangement to the process outlined below. The table below lists scheduled opportunities to learn about the draft guidance and to provide input to the Agency on the draft guidance as part of the consultation process.

We look forward to working with tribal leaders on this very important issue.

Sincerely,



Jane Nishida, Acting Assistant Administrator  
Office of International and Tribal Affairs

Enclosure

## Scheduled Engagement Opportunities

Date	Consultation Opportunity	Contact Information
August 25, 2015	National Tribal Government Informational Session ( <b>open to <u>all</u> tribal government leaders and staff</b> )	<b>Conference number</b> 1-866-299-3188 <b>Access Code:</b> 2025646633# <b>Meeting Time:</b> 2 pm- 3:30 pm eastern
September 8, 2015	National Tribal Government Consultation Teleconference ( <b>open to <u>all</u> tribal government leaders and or designated consultation officials</b> )	<b>Conference number</b> 1-866-299-3188 <b>Access Code:</b> 2025646633# <b>Meeting Time:</b> 2 pm- 3:30 pm eastern
September 22, 2015	National Tribal Government Consultation Teleconference ( <b>open to <u>all</u> tribal government leaders and or designated consultation officials</b> )	<b>Conference number</b> 1-866-299-3188 <b>Access Code:</b> 2025646633# <b>Meeting Time:</b> 2 pm- 3:30 pm eastern
October 6, 2015	National Tribal Government Consultation Teleconference ( <b>open to <u>all</u> tribal government leaders and or designated consultation officials</b> )	<b>Conference number</b> 1-866-299-3188 <b>Access Code:</b> 2025646633# <b>Meeting Time:</b> 2 pm- 3:30 pm eastern
October 16, 2015	Consultation closes for this action	Submit written comments via TCOTS <a href="http://epa.gov/tribal/consultation/comments-ttr.htm">http://epa.gov/tribal/consultation/comments-ttr.htm</a> OR regular mail to Jeff Besougloff U.S. EPA American Indian Environmental Office (2690R) 1300 Pennsylvania Avenue, NW Washington, DC 20460.