

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

In Reply Refer To:
8160/1120 (912) P

June 30, 2004

EMS
Instruction Memorandum No. ID-2004-084
Expires: 09/30/2005

To: ICT/IMF
Idaho Public Affairs

From: State Director

Subject: Managing Natural Resources Consistent with Treaty and Trust Responsibilities

Program Area: Tribal Relations

Purpose: The Idaho State Bureau of Land Management (BLM) is committed to fostering a positive working relationship with federally-recognized American Indian tribes. As federal land managers, we need to continue to ensure the rights and interests of Tribes are considered and addressed in BLM land management decisions and planning processes. To further our ability to achieve this goal, field managers must promote and engage in government-to-government relations with affected federally-recognized Tribes on an ongoing basis.

Policy/Action: As we review our current workload and begin to define our priorities for FY 2005, it is important to harmonize our program of work with the responsibilities we have to affected American Indian Tribes.

The following are examples of areas where this type of consideration is needed:

Updating Land/Resource Management Plans: Managers should reflect our commitment to engage in government to government consultation with Tribal governments by involving Tribes in our planning and decision making processes. Management plans and our National Environmental Policy Act documents should reflect an understanding of the issues and opportunities forwarded by the Tribes and document how these items were addressed. In order to better honor the federal trust responsibility and treaty obligations, where they apply, there should also be a discussion of potential effects to the resources and lands associated with tribal rights and interests. This information is critical not only to informing BLM managers and their resultant decisions, but also enables Tribes, in their review of our plans and actions, to make informed comments and recommendations to us.

Weed Management: Just as we work with state and local governments to ensure our weed control efforts are coordinated, so should we be working with Tribal governments. Tribal members use the lands we manage for gathering plants for food, medicine, and spiritual purposes; sometimes gathering is also a treaty reserved right exercised by the Tribe on BLM administered lands. We need to ensure that timing, location, method of treatment, etc. consider these tribal uses. This is critical as there could be health implications for Tribal members if we move ahead without these discussions. Further, Tribes manage a considerable amount of land and, as land managers, we need to be working toward a common goal through coordination of efforts and possibly pooling limited resources.

Land Tenure Adjustments: We need to ensure that potentially affected Tribes are consulted on land exchanges early in the process, so that we aren't unknowingly trading away resources/lands of critical importance to a Tribe or associated with the reserved treaty rights held by that Tribe. Consultation with Tribal governments on land exchanges is crucial, as typical market considerations may not include consideration of these types of key tribal values.

Fire Management: Our fire program has always included cooperation with the Bureau of Indian Affairs (BIA); however, as more and more Tribes take responsibility for various programs once handled by the BIA, we need to ensure that we are working with respective Tribal governments both on and off the reservation. Fire can be a powerful restoration tool, especially when the goals have been cooperatively defined with other land management partners and federal land users, including area American Indian Tribes.

Rec Fee Demo Projects/Additions: As we look at areas for possible inclusion in this program or examine existing areas, again, we need to be consulting with affected Tribal governments. Several of the Tribes in Idaho have reserved treaty rights which they exercise on BLM-administered lands. We need to ensure that any proposed or existing fees have been discussed with respective Tribes so tribal members are not being unfairly assessed fees on these lands when they are entering for the purposes of exercising a reserved treaty right, i.e. hunting, fishing, gathering, etc.

Cultural Resource Proposals/Projects: While interpretive or educational projects involving cultural resources are often considered "white hat" proposals, when these proposals involve areas/resources which are associated with the rights and/or interests of Tribes, we need to ensure that we are proceeding with full consideration of these tribal rights and interests. Further, there is also opportunity to learn from and involve tribes in a meaningful way in cultural resource management. We need to capitalize on these opportunities, when they arise.

American Indian tribes rely on federal lands for a myriad of purposes: subsistence uses, economics, socio-cultural reasons, treaty uses, spiritual/religious purposes, and more. Tribes also often manage significant land and resource holdings which contribute to overall ecosystem health and productivity. Additionally, Tribal officials represent a third sovereign

and, as such, are an important political ally in natural resource management. As federal land managers, we need to be working with our Tribal neighbors to address and harmonize our responsibilities to the lands and resources with our responsibilities to federally-recognized Tribes.

Cheryle Zwang, External Affairs and Stan McDonald, State Archaeologist will continue to be available as resources to you as we build and/or enhance our relationship with the Tribal governments in the Region. I believe we have an invaluable partner in the American Indian Tribes in this state. As land stewards, we need to cultivate and capitalize on this partnership so that the resources and lands can benefit from our cooperative efforts.

Timeframe: Guidance is effective immediately.

Background: Numerous laws, treaties, executive orders, agreements, and associated policies and regulations define the obligations of our agency to federally-recognized American Indian Tribes. In the last several years, the Administration has also further emphasized the commitment to government to government communication and consultation with Tribes. Several executive and secretarial orders provide strong language directing federal agencies to consult with and involve American Indian Tribal governments to the maximum extent practicable in our planning and decision-making processes, as well as to engage them in cooperative efforts on a myriad of fronts. For example, EO 12898: Environmental Justice, EO 13007: Indian Sacred Sites, EO 13021: Tribal Colleges and Universities, SO 3206: Tribes and the Endangered Species Act, and EO 13084: Consultation and Coordination with Indian Tribal Governments.

Manual/Handbook Sections Affected: BLM Manual 8160 (8160.08, 8160.08A2 and 8160.08A1a-g) – Native American Coordination and Consultation.

Coordination: Cultural Archaeologist, Deputy State Director of Resources, Resources and Science Branch Chief and Deputy State Director for Support Services.

Contact: For questions regarding this action/guidance, contact Cheryle Zwang at (208) 373-4016 or Stan McDonald at (208) 373-4043.

Lower Snake River District with Union: No Union notification or negotiation is required.

Signed
K Lynn Bennett

Authenticated
Sue Kohls
Administrative Assistant

