



April 27, 2012

Attn: Alaska Consultation Policy
Office of the Secretary
Department of the Interior
1849 C Street NW
Washington, DC 20240
consultation@doi.gov

RE: Comments on the Draft Policy on Consultation with Alaska Native Claims Settlement Act Corporations

Dear Secretary Salazar:

I am writing to you on behalf of Sealaska Corporation to provide comments on your Draft Policy on Consultation with Alaska Native Settlement Act Corporations (“Draft Policy”). Sealaska Corporation is the Alaska Native Regional Corporation for Southeast Alaska. We represent more than 21,000 tribal member shareholders of Tlingit, Haida and Tsimshian descent. Sealaska is one of the largest private landowners in Southeast Alaska and we know that there will be Department of the Interior actions that will require consultation with Sealaska and all other Alaska Native Corporations. For that reason, we feel inclined to comment on the Draft Policy to ensure it provides for meaningful consultation at all stages of the Department’s decision-making process.

At the outset, we would like to disclose that one of our Sealaska Corporation officers and tribal member shareholders participated on the working group that created the Draft Policy. Jaleen J. Araujo, our Vice-President & General Counsel, was highly engaged in the creation of this Draft Policy, and we appreciated the appointment of Ms. Araujo to the working group. We are very aware of the time and energy that went into creating this document, and as a general matter, we support the Draft Policy. That being said, we do want to provide some of our comments and concerns, which you may have already heard from Ms. Araujo during the drafting process. We hope that the Department will be mindful of these concerns during the implementation process.

We continue to have a concern regarding the bifurcation of the Tribal consultation and ANCSA consultation policies at the Department of the Interior. This “ship may have already sailed”, but we still believe it was possible and more workable to have a single policy that covers both Tribal and ANCSA Corporation consultation. The supplemental ANCSA Corporation policy has little substance on its own, and references back to the main Tribal Consultation policy in many instances. The simple addition of definitions to the Tribal Consultation Policy, and inclusion of some language in the Preamble to distinguish between the federal government’s relationship with the Tribes and its relationship with ANCSA Corporations, would have been sufficient and allowed for a single policy.

We conclude that having two parallel consultations policies for Alaska Native tribes and corporations is a wasteful use of Alaska Native and federal resources. Moreover, unless the scope of each consultation is identical, we conclude that this is a misreading of the ANCSA amendment that mandated the inclusion of ANCSA corporations in the Executive Order for consultation on the same basis as tribes. Both tribes and ANCSA corporations have a right to participate in any issues that are subject to the Executive Order on consultation. There is nothing in the law that suggests that ANCSA corporation consultation is limited in anyway. Sealaska is also concerned that under the proposed bifurcated consultation policy that there is potential for confusion at the Department regarding who should be notified for consultation purposes. This could potentially result in a party being left out of the consultation process that should have been included. An example of this potential for error in notification is Alaska Native subsistence rights under ANCSA and ANILCA. These rights are defined only in ANILCA and arise in the context of the lands and rights that were accorded to Alaska Natives through ANCSA corporations. Under ANILCA, the current subsistence rights are defined through rural residents, not tribal membership. However, Sealaska would not argue that Alaska Native tribes do not have a role or right to participate in Executive Order consultation. From Sealaska's perspective, both the Alaska Native tribes and Sealaska and all of the village corporations have a right to participate in Executive Order consultation on exactly the same basis.

The separate consultation policies also assume that we, as ANCSA Corporations, do not have a legal or policy interest in commenting on impacts to tribes and their resources. Our ANCSA Corporation shareholders are not only corporate shareholders, but are also, in most cases, Tribal Members. Our communities within our region also have tribal governments whose health, welfare, and sustainability are important to us at Sealaska. I am sure that this is a similar concern at other ANCSA Corporations. We would like to have the opportunity to comment in support of tribal interests and to address the Department's impact on tribal interests and their resources. By no means do we seek to replace the voice of any Tribe, but rather to lend our support and to voice our concerns over the impacts on tribal resources. For that reason, we believe that in the implementation process, the Department must seek and consider ANCSA Corporation consultation on some Department actions that had broad tribal implications.

The consultation policy as proposed also does not recognize or appreciate that a significant cost of advocacy has and continues to be paid for by the ANCSA corporations. Without exaggeration, the ANCSA corporations have spent millions of dollars on supporting Alaska Native tribal member shareholders' rights under ANILCA. Without the commitment of these ANCSA resources, many critical tribal member shareholder issues would have been ignored all together.

Moreover, the Department of the Interior consultation policy will likely result in a duplication of efforts by staff at the Department, with implementation of two consultation policies. The decision to have separate policies certainly is not streamlined or lean, and will further stretch dwindling Departmental resources.

Some of these issues could be addressed in the Training process and in development of Innovative and Effective Consultation Practices, as are contemplated in the Draft Policy. We

would be happy to assist in providing further comments on effective training that would ensure that ANCSA Corporations are consulted in the appropriate circumstances. This training should most certainly involve participation by ANCSA Corporation representatives.

Lastly, we hope that the Department will be careful to keep the ANCSA Corporation contacts list updated on a regular basis. Of course, this will require communication from the Regional and Village Corporations to the Department. That being said, where the Department sees a pattern of no communication back from an ANCSA Corporation, the Department should be proactive in ensuring that consultation requests are sent to appropriate Corporate Officials.

Thank you for the opportunity to comment on this important Draft Policy. If you would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

SEALASKA CORPORATION

A handwritten signature in black ink, appearing to read "Chris McNeil, Jr.", written in a cursive style.

Chris E. McNeil, Jr.
President & CEO