



April 24, 2012

Alaska Consultation Policy
Office of the Secretary
By email (consultation@doi.gov) and First Class Mail
1849 C Street NW
Washington, D.C. 20240

Re: Draft Policy on Consultation with
Alaska Native Claims Settlement Act Corporations

Dear Sirs:

These comments on the above-referenced Draft Policy on Consultation with Alaska Native Claims Settlement Act Corporations are submitted on behalf of Chugach Alaska Corporation (“Chugach”), the Alaska Native Regional Corporation for the Chugach region established pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, 43 U.S.C. § 1601, *et seq.*, (“ANCSA”). Under ANCSA, Chugach owns or has valid selection rights to over 927,600 acres of surface estate and subsurface estate. In addition to ANCSA, Chugach’s rights with respect to its lands and adjacent federal lands are governed by the Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. § 1301 *et seq.*, and the 1982 Chugach Natives, Incorporated Settlement Agreement. Of its entire land entitlement, which is 98% conveyed, over 625,000 acres of surface estate and subsurface estate and selection rights are located within the boundaries of the Chugach National Forest, making Chugach by far the largest private landowner within Chugach National Forest boundaries, and making the United States Forest Service (“USFS”), an arm of the United States Department of Agriculture (“USDA”), the primary federal agency with which Chugach interacts on issues of access and similar land management matters. Our research indicates that to date, neither USDA nor USFS have promulgated a consultation policy specifically for Alaska Native Corporations.

Chugach appreciates the Department of Interior promulgating the draft policy and moving forward in a considered and constructive manner to implement its consultation obligations with Alaska Native Corporations. Chugach further appreciates the opportunity to provide input on the draft policy.

Incorporating Tribal Consultation Policy. For much of its content, the draft policy incorporates by reference substantial provisions of the Department of the Interior Policy on Consultation with Indian Tribes, “with adjustments as necessary to account for the unique, status, structure, and interests of ANCSA corporations as appropriate and allowable.” As a matter of presentation, Chugach believes the draft policy should be renoticed in a form that presents the policy as a complete, single integrated document, so that the meaning of these cross-references can be understood in the context of the draft policy as a whole. Any “adjustments as necessary to account for the unique status, structure, and interests of ANCSA Corporations” should be explicit parts of the policy if it is to provide real guidance to federal and corporate decision makers. After all, it is the “unique status” of ANCSA corporations

that is the entire basis for the need for a policy separate from the one governing departmental consultation with Tribes.

More substantively, Chugach questions the wisdom of engrafting consultation principles and procedures applicable to the government-to-government relationship between federal agencies and Tribes into the ANC consultation context.

A good example is the definition of "Departmental Action with ANCSA Corporation Implications" to include "operational activity that may have a substantial direct effect on . . . ANCSA Corporation land, water areas and resources." In the context of corporations that own hundreds of thousands or millions of acres of land and mineral resources, without appropriate clarification, this standard seems vague and ambiguous. Some parcels conveyed under ANCSA are not even an acre in size; accordingly, we would propose that clause #1 under the above-referenced definition be reworded as follows:

1. any ANCSA Corporation land, water areas ~~and~~ or resources,

so as to avoid any doubt that departmental activity having a substantial direct effect on even a small parcel of ANCSA land will trigger the Department's consultation obligations.

Cooperation with Other Agencies. As noted, the federal agency whose actions most impact Chugach is the USFS. The draft policy states that the Department "will seek and promote co-operation and participation between agencies with overlapping jurisdiction, special expertise, or related responsibilities regarding a Departmental Action with ANCSA Corporation Implications." Chugach whole-heartedly supports this approach but, as worded, is concerned that it does not go far enough.

Since applicable law requires "all Federal agencies" to consult with ANCSA Corporations, the draft policy should require, as a condition of the Department's implementation of any Departmental Action with ANCSA Corporation Implications, that all other federal agencies with overlapping jurisdiction or related responsibilities have met their respective consultation obligations and that any such consultation by any other such agencies is done pursuant to standards at least as rigorous as those adopted by the Department. While the language in the draft policy on cooperation may be adequate in circumstances where the Department is the lead or instigating agency, more is needed where, as is often the case within the Chugach Region, action by the Department is derivative of actions or policies of other federal agencies.

Thank you for the opportunity to comment.

Sincerely,



Sheri Buretta
Chairman of the Board