

April 27, 2012

Secretary Kenneth Salazar
 U.S. Department of State
 1849 C Street NW
 Washington, DC 20240

Dear Secretary Salazar:

NANA Regional Corporation, Inc. offers the following comments on the Draft Policy on Consultation with Alaska Native Claims Settlement Act Corporations. NANA appreciated the opportunity to have a representative on the team that drafted several versions of the policy, but we have been extremely disappointed with the process the Department has chosen to use in complying with directives from the President and Congress.

Executive Order No. 13175 directs all federal agencies to consult with Indian tribes when considering actions that have an impact on tribes. In the Consolidated Appropriations Act for Fiscal Year 2004, Congress directs the Office of Management and Budget to consult with Alaska Native Corporations “on the same basis” as Indian tribes under that Executive Order. Congress expanded that directive to all federal agencies in the Consolidated Appropriations Act for Fiscal Year 2005.

The Department of the Interior announced in March of 2010 that it was forming a team of tribal officials to draft a Tribal Consultation Policy. A year later, after the tribal consultation team had put together a draft policy that included a statement that the Department would later develop a policy for consultation with Alaska Native Corporations (“ANCs”), the Department announced in March of 2011 that it was forming a team of tribal officials and ANC officials to draft a policy for consultation with Alaska Native Corporations. This bifurcated approach has been a way to divide our people rather than bring them together on this important policy, and gives the impression that tribal concerns should be given more weight despite Congress’ clear wish that ANCs be consulted on the same basis. We believe the policies for consultation with tribes and ANCs should be combined.

ANCs were created by Congress and were charged with managing land and money from the land claims settlement for the benefit of their shareholders. NANA currently has more than 13,000 Alaska Native shareholders most, if not all, of whom are also tribal members. Tribes in Alaska have a government-to-government relationship with the United States and we are not seeking to interfere with that relationship. ANCs hold most of the traditional lands of the Alaska Native peoples and have statutory responsibilities to their shareholders. There are federal actions that would affect just tribes or just ANCs, but there are a lot of actions that would affect the interests of both tribes and ANCs because they both have responsibilities to improve the quality of life for their members and shareholders.

The draft ANC policy lays out some general principles and gives ANC-related definitions. What should be the meat of the policy simply repeats in each section that the tribal policy applies but will be adjusted “as appropriate and allowable” for ANCs. There is no guidance on what constitutes

appropriate and allowable adjustments or who would decide the scope of deviations. It makes no sense to have a separate policy that only adds another party to an existing policy. If it is to be a separate policy, it should state the process for reporting results of ANC consultations, information on what will be included in Department training regarding ANC consultations, and guidelines to consulting with ANCs.

The policy implies in the guiding principles that actions that affect both tribes and ANCs would prompt separate consultations. Having two consultations on the same federal action will be inefficient, costly and counterproductive. It could also be burdensome to small communities, especially where people have leadership roles in both a tribe and ANC. There are times when tribes and ANCs have opposing views so it could sometimes make sense to have separate consultations, but quite often our views are similar, such as with protection of subsistence rights. We recommend the Department start with one process that includes all affected tribes and ANCs, and only separate the consultations if a tribe or ANC requests a separate consultation.

The language of the draft policy, and the fact that the ANC policy is relegated to a supplement, also imply that tribal concerns will be given greater weight than ANC concerns. We again recommend that the ANC policy be incorporated into the Tribal policy and that the last sentence of the first paragraph of the draft Guiding Principles be changed as follows:

"When concerns expressed by Indian Tribes and ANCSA Corporations substantively differ, Department officials shall be mindful of Indian Tribes' rights to self-governance and Tribal sovereignty and also of ANCSA Corporations' statutory responsibilities to their shareholders, and shall balance the relative interests with respect to the proposed action."

We appreciate the work the Department has done to set guidelines for consultation with American Indian and Alaska Native peoples. We believe the Department will benefit from the input these groups will provide in consultations. We urge you to combine the ANC and tribal consultation policies, or to make the ANC consultation policy a full, stand-alone policy incorporating the changes we recommended above.

Sincerely,

A handwritten signature in black ink, appearing to read "Marie N. Greene". The signature is fluid and cursive, written in a professional style.

Marie N. Greene
President and CEO