



**MINNESOTA DEPARTMENT OF IRON RANGE RESOURCES AND
REHABILITATION POLICY ON CONSULTATION, COORDINATION AND
COOPERATION WITH MINNESOTA TRIBAL GOVERNMENTS
MINNESOTA STATUTES SECTION 10.65**

I. Introduction

The Minnesota Department of Iron Range Resources and Rehabilitation (IRRR) recognizes and understands that the United States and the State of Minnesota have a unique legal relationship with federally recognized Indian Tribes, as affirmed by the Constitution of the United States, treaties, statutes, and case law. The State of Minnesota is home to eleven federally recognized Indian Tribes with elected or appointed Tribal governments. Only four of the Tribal governments in Minnesota are fully or partially located within the Taconite Assistance Area (TAA) as defined under Minn. Stat. § 273.1341, which is the geographic service area of the IRRR. Although the IRRR is a state agency, it serves only the TAA. The four Tribal governments within the TAA (“identified Tribal Nations”) are: Bois Forte Band, Fond du Lac Band, Grand Portage Band and Leech Lake Band.

The State of Minnesota recognizes and supports the unique status of the Tribal Nations within Minnesota and their absolute right to existence, self-governance, and self-determination. IRRR recognizes that although the State of Minnesota is not a party to the treaties that established these inherent rights, the IRRR supports the State’s reciprocal interest in protecting natural environments and to use public resources in an environmentally responsible manner that does not negatively impact treaty rights.

The State acknowledges that Tribal Nations in Minnesota are comprised of a majority of the State’s American Indian population, which totals approximately one percent of the State’s population and provides significant employment in the State. The State also acknowledges that members of the Tribal Nations are citizens of the State of Minnesota and possess all the rights and privileges afforded by the State.

The State of Minnesota and Tribal governments in Minnesota significantly benefit from working together, learning from one another, and partnering when possible.

Timely and meaningful consultation between the IRRR and the identified Tribal governments in Minnesota will facilitate better understanding and informed decision-making by allowing for communication on matters of mutual interest and help to establish mutually respectful and beneficial relationships between the IRRR and the identified Tribal governments.

The IRRR has developed the following policy for consultation, coordination, and cooperation with each of the four Tribal governments located within the IRRR’s TAA service area. Nothing in this policy constitutes a waiver and shall not be construed to be a waiver of any Tribal government’s rights to participate in any state, federal, or local rulemaking, litigation, agency hearing or permitting process,

legislative deliberations or hearings. The IRRR is not authorized to represent any Tribal government's position on a matter that was the subject of consultation without the prior written consent of the Tribal government.

II. Policy

The IRRR will consult with the identified Tribal governments within its service area prior to September 1st of each year to allow each Tribal government opportunity to provide input and identify issues that the agency should consider and develop as part of the agency's budget and legislative agenda for the upcoming year.

The IRRR will also consult on a government-to-government basis with the identified Tribal governments when IRRR actions and decisions impact matters that have tribal implications. Consultation is meaningful when it occurs at the earliest possible stage, prior to IRRR taking actions or implementing decisions that may directly affect or impact any of the identified Tribal Nations to ensure that Tribal views are respected and included in such plans. Tribal consultation is most effective when it is seen and understood as a process for continuous input and discussion resulting in mutual understanding and commitment to the process.

Meaningful consultation is based on open communication, coordination and cooperation that acknowledges and considers the views of all contributors, and then seeks agreement on how to achieve the goal of mutually beneficial solutions, when possible.

This policy establishes guidelines and institutional processes that seek to strike a balance between providing sufficient guidance for purposes of achieving consistency and predictability while allowing for and encouraging the tailoring of consultation approaches to reflect the circumstances of each consultation situation and to accommodate the unique cultural sensitivities, differences, and preferences of each Tribal government.

The consultations that will result from the implementation of this policy are not intended to preclude or replace the existing, on-going and future meetings, communications and exchanges of information and input that occur between the IRRR staff and identified Tribal governments that are expected to continue on a regular basis. The main differences between consultations and more routine communications are that consultations include formal steps to identify the issue(s), notify parties, and develop a record of the process. This stepwise process allows time and opportunity to learn and understand as well as provide input into a decision that has not yet been made.

III. Consultation Process

A. When Consultation Occurs

Consultation should occur early enough to allow an identified Tribal government the opportunity to provide meaningful input that can be considered prior to IRRR deciding whether, how, or when to act on the matter under consideration. As proposals and options are developed, consultation, coordination, and cooperation should be continued, to ensure that the overall range of options and decisions is shared and deliberated by all concerned parties, including additions or amendments that occur later in the process.

Consultation may be initiated by IRRR through written notification to an identified Tribal government or may be requested by any identified Tribal government through a written request to the IRRR from a Tribal Official. Notifications for consultation should occur between the Designated IRRR Tribal Liaison and the Tribal Official as identified in section C.

B. How Consultation Occurs

There is no single formula for what constitutes appropriate consultation, and the planning and implementation of consultation should consider all aspects of the action under consideration.

The Consultation process consists of four (4) steps: Identification, Notification, Input, and Follow-up.

1. Identification – IRRR or the identified Tribal government will identify the activities and issues as well as define the subject matter of mutual interest as it relates to economic development, community development and workforce development that may be appropriate for consultation. Identification should include a determination of the complexity, implications and resource constraints of the activity, as well as identification of the potentially affected Tribal government.
2. Notification – One party notifies the other party of its desire to hold a consultation. Any notification should include sufficient information for the responding party to make informed decisions about participation and how to provide informed input. Notification should also be done in a timely manner to allow the responding party adequate time to prepare and schedule appropriate participants as needed.
3. Input - The requesting party provides input to the responding party on the consultation matter. This can occur in a number of ways, including meetings, written, and oral exchanges of information, phone calls, or other ways depending on the specific circumstances. Subsequent rounds of consultation may need to take place in order to be responsive to Tribal government needs, to provide sufficient opportunity to provide, receive, and discuss input, and as new issues arise.
4. Follow-up – The IRRR will work together with the Tribal government to build a written record of the consultation. The IRRR will strive to provide a record of consultation meeting topics and the discussion surrounding those topics. This record will be provided to the consulting Tribal government for review. The IRRR will include any clarifications or corrections in the final notes for the record.

Consultation input and follow-up will be informal, Tribal staff to IRRR staff, unless a Tribal government or the IRRR believes that consultation regarding a specific topic is not productive. In such case, a Tribal Official or the IRRR Tribal Liaison may provide a written request to the other party requesting that formal consultation occur for a specific topic.

The consulting Tribal government or the IRRR may invite another party to the consultation if both the Tribal government and the IRRR agree.

C. Roles and Responsibilities

1. IRRR Tribal Liaison – Responsibilities include coordination and implementation of Tribal government consultation in accordance with this Policy. The Tribal government has the authority for identifying and defining IRRR actions appropriate for consultation, evaluating the adequacy of that consultation, ensuring that IRRR program and consultation practices are consistent with this Policy, and is responsible for ensuring that a written record of the consultation is maintained. The Tribal Liaison will identify the specific IRRR staff who will participate in the consultation and will have a direct line of communication with the IRRR Commissioner, Deputy Commissioner, and other senior-level staff, in order to appropriately conduct government-to-government communications. In the event there is a vacancy of the official IRRR Tribal Liaison position, the IRRR Commissioner shall designate an IRRR employee as the agency's interim Tribal Liaison.
2. Tribal Official – Each identified Tribal government will determine its own roles and responsibilities within the consultation process as defined by their individual policies and procedures. The IRRR recognizes that consultation is a formal engagement between agency officials and the governing body or bodies of an individual identified Tribal government that the agency or an individual Tribal government may initiate.
3. IRRR Commissioner – The Commissioner will be the final authority for ensuring the policy is implemented according to defined procedures and protocols of the policy. The Commissioner will also establish protocol for creating policy awareness with agency staff on an annual basis.
4. Legal Counsel – The point of contact for all legal questions and legal matters will be IRRR Legal Counsel.

IV. Capacity Building and Sustainability

A. Resources

The IRRR will commit to providing commensurate resources reasonably necessary for tribal interactions as they pertain to consultations and partnerships agreeable to both parties.

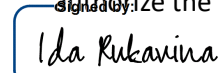
B. Training

1. IRRR will seek to have all staff attend the Tribal State Relations Training (TSRT). An attendee's certificate of attendance will be kept in the employee's personnel file with the agency's human resources department. A list of all employees who have completed attendance shall be made available to the Tribal Liaison.
2. IRRR commits to continued training and education for all staff levels, or designated staff as determined by the Commissioner or Tribal Liaison, in areas that will support, promote, and enhance the tribal consultation process and outcomes as well as improving trust and relationships with Tribal governments.

C. Sustainability

1. Upon completion of the annual tribal consultation, each identified Tribal government will be given the opportunity to provide input on the consultation process.
2. The Tribal Consultation Policy will be reviewed on an annual basis by the Commissioner, Tribal Liaison and Legal Counsel to make amendments if needed. Input received from consultations during the year will be considered and added if it mutually benefits both parties in the consultation process.
3. Within 30 days after annual policy review and consultation, the Commissioner will authorize the distribution of the policy to all IRRR.

By:



Ida Rukavina, Commissioner

8/19/2024

Dated: _____