



**MINNESOTA DEPARTMENT OF IRON RANGE RESOURCES AND REHABILITATION  
POLICY ON CONSULTATION, COORDINATION AND COOPERATION  
WITH MINNESOTA TRIBAL NATIONS, 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 Tribal Nations, as affirmed by the Constitution of the United States, treaties, statutes, and case law. The State of Minnesota is home to eleven federally recognized Tribal Nations (“Minnesota Tribal Nations”) with elected or appointed Tribal Governments. Four of the Minnesota Tribal Nations are fully or partially located within the Taconite Assistance Area (TAA) as defined under Minn. Stat. Sec. 273.1341, which is the geographic service area of the IRRR. These four Tribal Nations (“identified Tribal Nations”) are: Bois Forte, Fond du Lac, Grand Portage and Leech Lake.

The State of Minnesota recognizes and supports the unique status of the Minnesota Tribal Nations and their right to existence, self-govern, and possess 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 Minnesota Tribal Nations are comprised of a majority of the State’s 108,000 American Indians and provide significant employment in the State. Members of the Minnesota 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 the Minnesota Tribal Nations significantly benefit from working together, learning from one another, and partnering when possible.

Meaningful and timely consultation between the IRRR and the identified Tribal Nations will facilitate better understanding and informed decision making by allowing for collaboration on matters of mutual interest and help to establish mutually respectful and beneficial relationships between the IRRR and the identified Tribal Nations.

The IRRR has developed the following policy for consultation, coordination and cooperation with each of the four Minnesota Tribal Nations 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 Nation’s rights to participate in any state, federal or local rulemaking, litigation, agency hearing or permitting process, legislative deliberations or hearings, nor is the IRRR authorized to represent any Tribal Nation’s position on a matter that was the subject of consultation without the prior consent of the Tribal Nation.

**II. Policy**

The IRRR will consult with the identified Tribal Nations within its service area prior to September 1<sup>st</sup> of each year to allow each Tribal Nation 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 Nations when IRRR actions and decisions may directly affect tribal interests. 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 controls and seeks 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 Nation.

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 Nations 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 Nation 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 Nation or may be requested by any of the identified Tribal Nations 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 Nation 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 Nation.

2. Notification – One party notifies the other party of its desire to hold a consultation. Any notification from the IRRR should include sufficient information for the Tribal Nation to make informed decisions about participation and how to provide informed input. Notification should also be done in a timely manner to allow the other party adequate time to prepare and schedule appropriate participants as needed.
3. Input - The requesting party provides input to the other 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 Nation 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 Nation 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 Nation 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 Nation 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 Nation or the IRRR may invite another party to the consultation if both the Tribal Nation and the IRRR are in agreement.

### C. Roles and Responsibilities

1. IRRR Tribal Liaison – Responsibilities include coordination and implementation of Tribal Nation consultation in accordance with this Policy. The Tribal Liaison 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 – For the purpose of formal tribal consultation required under Minnesota Statutes Section 10.65, the Tribal Official must be one or more of the elected governing body for the Tribal Nation. For the purpose of informal consultations and ongoing communications and partnerships, the Tribal Official may be an elected, appointed or designated consultation official. Each Tribal Nation will determine its own roles and responsibilities within the consultation process, as defined by their individual policies and procedures.

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

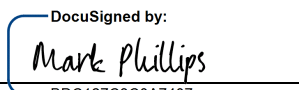
The IRRR will commit to providing commensurate resources reasonably necessary for tribal interactions as they pertain to consultations and partnerships agreeable to both parties.

##### B. Training

1. IRRR will seek to have all staff attend the Tribal State Relations Training (TSRT). Attendee's certificate of attendance will be kept in each 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 the trust relationship with Tribal Nations.

##### C. Sustainability

1. Upon completion of the annual tribal consultation, each identified Tribal Nation 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, the Commissioner will authorize the distribution of the policy to all IRRR staff and require a signed acknowledgement form to be kept on file with the Tribal Liaison.

By:   
Mark R. Phillips, Commissioner

Dated: 8/18/2022