

STATE-TRIBAL COLLABORATION ACT 2022 AGENCY REPORT



New Mexico Department of Game and Fish

Michael B. Sloane, Director

June 30, 2022

Prepared by: Jack Young

I. SUMMARY

The New Mexico Department of Game and Fish (Department) conducted regular annual operations pertaining to the State Tribal Collaboration Act (§ 11-18-3 NMSA 1978) during the New Mexico State Government's fiscal year 2022. The Department throughout the 2022 fiscal year accommodated to the best of its ability the concerns, queries and interactions with the Native Peoples affiliated with New Mexico. The Department participated in both formal and informal interactions with several Nations, Tribes and Pueblos throughout the state and region. The Department, through its wildlife and fisheries operations, came in contact with Native hunters and anglers; conducted government-to-government consultation with Nations, Tribes, and Pueblos; and participated in department and tribal collaboration on wildlife and fisheries projects. The Department maintained Sovereign Nation, Tribal, and Pueblo relations despite the lingering adverse conditions endured under a diminishing Covid 19 Pandemic both by Native Governments and the Department.

In particular,

The Department has assisted and worked with various Tribal law enforcement entities on several occasions concerning wildlife and public safety. The Department continued to participate in wildlife and fisheries management data sharing with Nations, Tribes, and Pueblos. The Department, in collaboration with Native governments, has participated in joint studies on wildlife populations. The Department has invited Nations, Tribes, and Pueblos to comment on statewide wildlife and fisheries issues. The Department has consulted with Pueblos concerning hunting management on and in relation to Tribal and Pueblo-owned properties (i.e., non-designated tribal trust lands and regional specific game species.) The Department has addressed tribal traditional cultural requests concerning wildlife and properties overseen by the Department. The Department participated in outreach and education programs by providing Hunter Education classes in Native communities adapting to a virtual venue. Department employees were encouraged to receive cultural awareness training offered by the State Personnel Office.

II. AGENCY OVERVIEW/BACKGROUND

A. Mission Statement

The mission of the New Mexico Department of Game and Fish is: “To conserve, regulate, propagate and protect wildlife and fish within the State of New Mexico using a flexible management system that ensures sustainable use for public food supply, recreation and safety; and to provide for off-highway motor vehicle recreation that recognizes cultural, historic and resource values while ensuring public safety.”

B. Agency Overview

The New Mexico Department of Game and Fish is the state government agency statutorily created to enforce and administer the laws and regulations relating to game animals, fish, and other wildlife and to otherwise support the State Game Commission in its responsibility to fulfill the purposes of Chapter 17 NMSA 1978 and all other acts for like purposes. To satisfy the expectations expressed within these acts, the Department monitors, assesses, conserves, restores, and regulates the use of game, fish, and other wildlife, manages habitat, and provides relevant technical guidance, information and education, and depredation interventions. The Department provides objective and balanced conservation programs to benefit the full range of wildlife species and their habitats. The Department values collaboration and strives to make the decision-making processes accessible to, and inclusive of, all potentially affected interests and responsive to their needs and concerns. Department services are partitioned into four programs, aggregated by common statutory purpose and outcome:

- I. Field Operations Program
- II. Conservation Services Program
- III. Wildlife Depredation and Nuisance Abatement Program
- IV. Administration Program

III. AGENCY SPECIFIC EFFORTS AND PROGRAMS USED TO IMPLEMENT POLICY

Formal requests for Departmental contact from Nations, Tribal and Pueblo governments may be brought for Departmental consideration through the Tribal Liaison or Department administrative channels. However, the Department's protocols also allow for Department personnel to directly interact with Nations, Tribes, and Pueblos. Department administrative interaction with Nations, Tribes and Pueblos are often initiated based on the recommendations of Department personnel. All recorded government-to-government interaction is archived by the Department's Tribal Liaison.

- The Department's consultation with Nations, Tribes, and Pueblos is carried out under an internal protocol to address the State Tribal Collaboration Act (NMSA 11-18-3), and in compliance with the National Historic Preservation Act (36 CFR 800.6(b)-(2) under State Statute, or terms of United States Fish and Wildlife Service (FWS) grants. The Department consulted with numerous Nations, Pueblos and Tribes during fiscal year 2022. Topics of discussion included wildlife management, construction, habitat programs and land management. Specifically, the Nations, Tribes, and Pueblos with which the Department consulted included: Acoma Pueblo, Nambe Pueblo, Pojoaque Pueblo, Laguna Pueblo, Jemez Pueblo, Zuni Pueblo, Hopi, Mountain Ute Tribe, Navajo Nation, Mescalero Apache Nation, Fort Sill Apache (Chiricahua band), Jicarilla Apache Nation, Comanche, Kiowa and the Oklahoma Apache Band.
- This past fiscal year, the Department provided training and assistance for Hunter Education course for Hunters and/or instructors from the Navajo Alamo chapter of the Navajo Nation, Mescalero Apache Nation, Santa Clara Pueblo, Cochiti Pueblo, Kewa, Ohkay Owingeh, Zia Pueblo Laguna Pueblo, Isleta Pueblo San Felipe and Sandia Pueblo.
- At the request of Tribal authorities, the Department assists tribal law enforcement with wildlife enforcement issues. In fiscal year 2022, the Department aided the Navajo Nation and Mescalero Apache regarding current and ongoing wildlife criminal investigations and other non-wildlife related crimes.
- At the request of Pueblo and Tribal authorities, the Department assists tribal law enforcement with wildlife-related issues including Bears, Mountain Lions and other human/wildlife encounters. In fiscal year 2022, assistance was lent to the following Pueblos and Nations: Kewa, Mescalero Apache Nation, Jicarilla Apache Nation, Navajo Nation, Pojoaque Pueblo and Nambe Pueblo.
- The Department, along with Nations and Pueblos, Federal agencies, private landowners, and nonprofit conservation groups, helped form a management team for Rio Grande Sucker and Rio Grande Chub conservation. Nations and Pueblos involved in this management team include the Jicarilla Apache Nation, Santa Ana Pueblo, and Taos Pueblo.

- The Department shared Rocky Mountain Bighorn Sheep count data with Taos and collaborated with the Pueblo in the management of Rocky Mountain Bighorn Sheep populations.
- The Department, as a bequest of the New Mexico State Game Commission provided Mountain lion pelts and other various specimens of wildlife at the request of the Zuni and Tesuque Pueblo for traditional use.
- The Department in an attempt to address potentially interest of Sovereign Governments concerning the purchase and management of a large area within Sandoval and Mac Kinley counties by the Department for wildlife restoration have asked for comments from the Laguna Pueblo, Acoma Pueblo, Navajo Nation, Zuni and Hopi. This discussion is ongoing as the Department works to construct an effective management plan for the area.
- The Department, along with effected Tribes and Federal partners participated in “listening Sessions” for the Calf Canyon/Hermits Peak and Cerro Pelado hosted by New Mexico State Forestry concerning Tribal concerns surrounding the catastrophic wildfires plaguing the state. Additionally, The Department provided technical guidance for wild life to the Jemez Pueblo concerning the Cerro Pelado fire
- The Department enrolled privately-owned properties (i.e., non-designated tribal trust properties) of the Taos, Acoma, San Felipe, and Sandia Pueblos in the E-PLUS and/or A-PLUS program. These Pueblos, through the E-PLUS and/or A-PLUS program, receive either Elk and/or Pronghorn hunting opportunities as private landowners.
- The Department reaffirmed its commitment to the Jemez Pueblo for the management of culturally significant properties owned by the New Mexico State Game Commission and managed by the Department endangered by wildfires.
- Department staff members who regularly work with Nations, Tribes, and Pueblos have taken or are encouraged to attend the Cultural Competency training by the State Personnel Office.

IV. CURRENT AND PLANNED PROGRAMS AND SERVICES FOR NATIVE AMERICAN AND/OR ALASKA NATIVES

A. Programs and services provided to or affecting Native Americans, or Alaska Natives.

The Department is committed to promoting exchange between Department personnel, Department administration, and Nations, Tribes and Pueblos. The Department has no capacity under Chapter 17 NMSA 1978 for exclusive programs or services as described for Native Americans/Alaska Natives. However, as shown in the fiscal year 2022 activities described above in this report, the Department routinely collaborates with Nations, Tribes, and Pueblos in mutually beneficial projects for implementation of our respective fish, wildlife, public outreach, hunter education, and land management programs and, in addressing cultural/historic preservation issues that arise during the Department's daily operations. The Department's programs and their budgets for the entirety of said programs in which Native Americans might participate and/or might have interests are shown below:

Programs and Services Potentially Affecting American Indians or Alaska Natives			
Program	Description of Services	FY23 Funding	
Field Operations	Promotes and assists in the implementation of Department-supported law enforcement, resource management, habitat and public outreach programs throughout the state.	\$11,438,400.00	
Conservation Services	Provides information and technical guidance to hunters, anglers, appreciative wildlife interests and all persons or agencies that manage lands that result in the conservation and enhancement of wildlife. Conservation Services provide for the enhancement of habitat, the recovery of indigenous species, threatened and/or endangered wildlife.	\$26,648,000.00	
Wildlife Depredation and Nuisance Abatement	Provides depredation and nuisance complaint administration and intervention services to meet the expectations of private landowners, leaseholders, and other New Mexicans for relief and preclusion from property damage, annoyances, and threats to public safety caused by protected wildlife.	\$1,135,000.00	
Program Support	Provides support for flexible, miscellaneous systems that furnish direction, oversight and accountability. These funds provide support to all divisions that result in the attainment of planned outcomes for all Department programs.	\$8,970,400.00	

B. Agency accomplishments and challenges regarding Nations, Tribes and Pueblos and/or Native organizations in fiscal year 2023

The Department has successfully engaged in consultation and collaboration with Tribes, Nations and Pueblos as noted in this report. The Department will continue to work with the Tribes, Nations and Pueblos using a variety of outreach and educational opportunities and will continue to share wildlife data and habitat information for wildlife planning and management throughout the state. The Department will continue to establish and maintain an interactive relationship with individual Nations, Tribal and Pueblo governments at a government-to-government level.

C. Goals for fiscal year 2023 relating to Tribes, Pueblos, Nations and/or Native organizations.

1. The Department will continue its effort to promote Hunter Education with Pueblos, Tribes and Nations.
2. The Department is committed to working with Tribes, Pueblos and Nations on joint wildlife population concerns throughout the state
3. The Department is committed to working with and responding to all joint wildlife-related concerns for the Nations, Tribal and Pueblo.
4. The Department is committed to working with Nations, Tribal and Pueblo to respond to all joint wildlife-related health concerns for the state.

V. TRAINING AND EMPLOYEE NOTIFICATION

A. State Tribal Collaboration Act Training Certification

Department field and supervisory staff have in the past received the STCA Cultural Awareness Training and Certification from the State Personnel Office. Department personnel are subject to change and the Department strives to achieve cultural awareness training and certification, as well as departmental employee briefings in concern to Native populations and interaction with Native Peoples. The Department continues to have employees work with the Department Archeologist/Tribal Liaison and other individuals who are experienced and have knowledge and expertise in working with American Indians/Alaska Natives and the governments of Nations, Tribal and Pueblo.

B. Employee Notification about the STCA

Department managers, project leaders, and field employees are knowledgeable on the availability of the STCA policy. Department employees also have access to the Tribal Liaison for consultations regarding the Act.

CONTACT INFORMATION

Position/Program	Key Names
Agency Director	Michael B. Sloane, Director New Mexico Department of Game and Fish P.O. Box 25112 Santa Fe, NM 87507 (505) 476-8008 michael.sloane@state.nm.us
Deputy Director	Vacant
Field Operations Program	Tim Cimbal, Colonel Field Operations New Mexico Department of Game and Fish P.O. Box 25112 Santa Fe, NM 87507 505-476-8061 tim.cimbal@state.nm.us
Area Offices	<p>Northwest Area - Albuquerque Vacant, NW Area Captain Darrel Cole New Mexico Department of Game and Fish 3841 Midway Pl. NE Albuquerque, NM 87109 (505) 222-4706 darrell.cole@state.nm.us</p> <p>Southwest Area – Las Cruces Mike Matthews, SW Area Captain New Mexico Department of Game and Fish 2715 Northrise Dr. Las Cruces, NM 88011 (575) 532-2100 michiel.matthews@state.nm.us</p> <p>Northeast Area – Raton Mathew Anthony NE Area Captain New Mexico Department of Game and Fish 215 York Canyon Rd. P.O. Box 1145 Raton, NM 87740 (575) 445-2311 mathew.anthony@state.nm.us</p> <p>Southeast Area – Roswell Andrew Gray, SE Area Captain New Mexico Department of Game and Fish 1912 West Second Street Roswell, NM 88201 (575) 624-6135 andrew.gray@state.nm.us</p>
Tribal Liaison	Jack Young, Archaeologist/Tribal liaison Wildlife Management Division New Mexico Department of Game and Fish P.O. Box 25112 Santa Fe, NM 87507 (505) 476-8141 jack.young@state.nm.us

Appendix A

Agency Tribal Collaboration and Communication Policy

“Protecting and Promoting New Mexico’s Environment Group”
New Mexico Department of Game and Fish
Tribal Communication and Collaboration Policy

I. BACKGROUND

- A. In 2003, Governor Bill Richardson and Tribal Governments in New Mexico signed a *Statement of Policy and Process* (“Statement”) to “establish and promote a relationship of cooperation, coordination, open communication and good will, and [to] work in good faith to amicably and fairly resolve issues and differences.” The Statement “recognizes and respects [tribal] sovereignty” and directs State and Tribal Governments “to respect the principles of government-to-government relations.”
- B. In 2005, Governor Bill Richardson issued Executive Order 2005-004, *Statewide Adoption of Tribal Consultation Plans*. Executive Order 2005-004 expanded on the 2003 Statement by directing 17 State agencies to consult with all of New Mexico’s 22 Indian Nations, Tribes, and Pueblos in adopting tribal consultation plans that address “the agency’s operations that involve interaction with tribal governments, communities, and/or tribal members within New Mexico.”
- C. On March 19, 2009, Governor Bill Richardson signed the New Mexico State – Tribal Collaboration Act (“Act”) into law. The Act directs each state agency to designate a tribal liaison at each state agency, establishes an annual summit with New Mexico tribal leadership, and requires development of cultural competency training for state employees and development of state – tribal communication and collaboration policies for state agencies.
- D. In the fall of 2009, the Governor’s Office established the “Protecting and Promoting New Mexico’s Environment Group” composed of representatives from the New Mexico Energy, Minerals and Natural Resources Department, New Mexico Department of Game and Fish, New Mexico Office of State Engineer, New Mexico Environment Department, and New Mexico Department of Agriculture (“Agency” or “Agencies”). The Group was established to develop an overarching tribal communication and collaboration policy that:
 - a. Promotes effective communication and collaboration between the state agency and New Mexico Indian nations, tribes and pueblos;
 - b. Promotes positive government-to-government relations between the state and New Mexico Indian nations, tribes and pueblos;
 - c. Promotes cultural competency in providing effective services to New Mexico Indian nations, tribes and pueblos; and
 - d. Establishes a method for notifying state agency employees of the purpose and requirements of the tribal communication and collaboration policy.
- E. The Agency submits the Tribal Collaboration and Communication Policy (“Policy”) to the Indian Affairs Department in accordance with the State – Tribal Collaboration Act, NMSA 1978, § 11-18-4 (C) (2009).

- F. The adoption of this Policy does not preclude the Agency from further developing or updating agency-specific implementation plans, or consultation policies.

II. PURPOSE

- A. The purpose of this Policy is to foster, facilitate and strengthen positive government-to-government relations between the Agency and New Mexico's 22 Indian Nations, Tribes and Pueblos by establishing guidelines for State – Tribal communication and collaboration.

III. DEFINITIONS

- A. The following definitions shall apply in the Policy:
1. Agency or Agencies: New Mexico Environment Department, New Mexico Office of State Engineer, New Mexico Department of Game and Fish, New Mexico Energy, Minerals and Natural Resources Department, and New Mexico Department of Agriculture.
 2. Communication: Verbal, electronic or written exchange of information between staff of Agency and Tribal Governments and their officials and staff
 3. Collaboration: Collaboration is a process in which two or more parties work together to achieve a common goal. Collaboration may occur between the state and tribes and their respective agencies or departments and may involve other Indian organizations if needed. The purpose of collaboration is to discuss issues openly when they arise and to honor the sovereignty of each other.
 4. Consultation: Consultation with Tribal Governments is a unique government to government process. Consultation is an enhanced form of communication that emphasizes trust and respect. It is a shared responsibility that allows the parties to exchange, in an open and free manner, timely and accurate information and opinions for the purpose of mutual understanding. Consultation does not involve matters or issues in litigation.
 5. Cultural Competency: Refers to an ability to interact effectively with people of different cultures. Cultural competence comprises four components: (a) awareness of one's own cultural worldviews, (b) appreciation of cultural differences, (c) knowledge of different cultural practices and worldviews, and (d) honing cross-cultural skills. Developing cultural competence improves one's ability to understand, communicate with, and effectively interact with people across cultures.

6. Internal Agency Operations/Processes: The Agency has the authority and discretion to designate internal operations and processes that are excluded from this Policy such as personnel matters, budget development, accounting, etc.
7. Programmatic Action: Actions related to programs, bureaus, divisions and offices of the Agency excluding internal operations and processes that are planned or proposed to occur and that are within the areas of communication, collaboration, and consultation identified in this Policy.
8. Tribal Government: The governing structure of a sovereign, federally recognized government of an Indian Nation, Tribe, or Pueblo, within the United States. This Policy is inclusive of all 22 federally recognized Indian Nations, Tribes and Pueblos located in New Mexico.
9. Tribal impact: The impact of state legislation, regulations, policies, and Programmatic Actions on the natural, cultural, and environmental resources of New Mexico's 22 Indian Nations, Tribes, and Pueblos.
10. Tribes: Any of New Mexico's 22 Indian nations, Tribes, and Pueblos.

IV. PRINCIPLES

- A. Recognize and Respect Sovereignty: The recognition and respect of sovereignty is the basis for government-to-government relations and this Policy. State and Tribal Governments are sovereign governments. Sovereignty must be respected and recognized in government-to-government relations. Tribal Governments and State has the inherent authority to govern their own internal affairs. The State of New Mexico and the Agency recognize and acknowledge the trust responsibility of the Federal Government to New Mexico's 22 Indian Nations, Tribes and Pueblos.
- B. Promote Government-to-Government Relations: The Agency shall strive to facilitate discussion with New Mexico's 22 Indian Nations, Tribes and Pueblos, other parties, intergovernmental organizations, commissions and county and local governments to promote government-to-government relations.
- C. Establish Partnership and Coordination: In order to maximize the use of limited funding and human resources, the Agency and New Mexico's 22 Indian Nations, Tribes and Pueblos are encouraged to establish partnerships and coordinate on programmatic activities, training, workshops, and areas of mutual interest or concern.
- D. Promote Mutual Resolution: The Agency shall work in good faith with Tribal Governments to address and mutually resolve concerns. The Agency recognizes that good faith, mutual respect, and trust are fundamental to developing meaningful working relationships.

- E. Utilize Informal Communications: The Agency and Tribal Governments recognize that formal consultation may not be required in all situations or interactions. Staff for the Agency and Tribal Governments may communicate outside the consultation process. These communications do not negate the authority of the Agency and Tribal Governments to request formal consultation.

V. GENERAL PROVISIONS

- A. If a proposed Programmatic Action may impact Tribal cultural, natural, and environmental resources, the Agency shall endeavor to notify Tribal Governments and inquire whether collaboration should occur.
- B. The Agency shall follow applicable Federal and State laws regarding environmental resources located on Federal, State and private lands and shall adhere to applicable tribal laws when invited onto tribal lands.
- C. Subject to budgetary limitations, the New Mexico State Personnel Office shall provide Tribal Cultural Competency and Protocol training to Agency staff. Tribal Governments may provide the Agency with information on Tribal histories, policies, issues, and concerns relating to the Agency with the goal of increasing knowledge and respect for Tribal issues and concerns. Training, training materials and guidelines may be provided by Tribal Governments or may be developed by the Agency in collaboration with Tribal Governments.

D. Communication

- 1. Tribal Liaisons: State Tribal Liaisons shall work with Tribal Governments, staff and tribal programs to improve state-tribal interactions, enhance communications and resolve potential issues in improving the delivery of agency services to Tribal Governments.
- 2. Informal Communications: The Agency recognizes that consultation meetings may not be required in all situations or interactions involving state-tribal relations. Tribal members may communicate with other Agency employees outside the consultation process, including the State Tribal Liaisons and Program Managers to ensure programs and services are delivered to their constituents. While less formal mechanisms of communicating may be more effective at times, this does not negate the State's or the Tribe's ability to request formal consultation on a particular issue or policy.
- 3. Informal Communications with Other Indian Organizations. The State-Tribal relationship is based on a government-to-government relationship. However other Indian organizations, such as those representing or providing services to New Mexico Indian Nations, Tribes and Pueblos might be adversely affected if excluded from Agency communications. Although these organizations are not considered federally-recognized Tribal governments, nothing in this Policy prevents the Agency from

soliciting recommendations, or otherwise communicating with these groups.

4. To promote effective communication between the Agency and Tribes the Agency shall endeavor to:
 - a. Communicate with each Indian Nation, Tribe or Pueblo and establish for each:
 - i. Preferred methods of communication (formal and informal);
 - ii. Issues or areas of Tribal interest relating the Agency programs or activities;
 - iii. Appropriate Tribal contact;
 - b. Conduct face-to-face meetings between the appropriate Agency and Tribal policy and/or technical level staff to increase understandings of any proposed Programmatic Actions in an effort to enhance the development of effective outcomes.

E. Cultural Competency

1. To effectively work in cross-cultural State – Tribal environments, the Agency shall:
 - a. Participate in ongoing professional development and in-service tribal protocol training provided by the State Personnel Office at all agency levels for building knowledge, awareness and skills in the area of cultural competence.
 - b. Establish policies to ensure that new staff is provided with training, technical assistance and other supports necessary to work within culturally diverse communities.
 - c. Provide information to tribal governments and communities. If requested by a tribal government to provide translation and interpretation, the Agency shall coordinate with the tribal government to provide those services to the extent certified interpreters and translators are available, and within the budget of the Agency.
 - d. Encourage Agency staff to hold meetings with tribal leadership or staff within tribal communities when possible.

F. Collaboration and Consultation

A. Collaboration:

1. Collaboration may be initiated by the Agency requesting collaboration or alerting Tribal Governments as early as possible to allow for sufficient collaboration. Additional specific Agency procedures for collaboration may be developed to assist in the implementation of this Policy. Collaboration shall be held wherever practical, including Tribal Government locations.
2. The Agency and tribes may choose to establish a work group and to develop recommendations. An example of Work Group organization and procedures is attached as Addendum A.

B. Consultation:

1. Consultation may be initiated at the request of the Agency.
2. Consultation may be initiated at the request of Tribal Governors or Presidents, or duly authorized Tribal Officials if deemed appropriate by the Agency.
3. Consultation shall be required only by applicable Federal, State, or Tribal law or regulations.
4. Consultation does not involve matters or issues in litigation.
5. An example of state – tribal consultation procedures is attached as Addendum B.

VI. CONFIDENTIALITY

- A. Confidentiality: The Agency shall exhibit a high degree of respect and sensitivity to protect confidential information provided by Tribal Governments and staff, and shall ensure confidentiality where possible to the extent provided by State and Federal law, e.g., court orders, the New Mexico Inspection of Public Records Act, and the federal Freedom of Information Act.

VII. LIMITATIONS

- A. The Policy shall not create any benefit, substantive or procedural right, or entitlement, enforceable by law, for any Tribal Government or Tribal Official, and State Government or State Official.
- B. The Policy shall not diminish any administrative or legal remedy otherwise available by law to the Agency or a Tribal Government.
- C. The Policy shall not be construed to waive the sovereign immunity of the State of New Mexico or a Tribal Government, or to create a right of action by or against the State of New Mexico or Tribal Government or its officials for failure to comply with this Policy.

- D. The Policy does not prevent the Agency and Tribal Government from entering into Memoranda of Understanding, Intergovernmental Agreements, Joint Powers Agreements, professional service contracts, or other established administrative procedures and practices mandated by Federal, State or Tribal laws or regulations.
- E. The Agency retains the final decision-making authority with respect to actions undertaken by the Agency.

VIII. DISSEMINATION OF THE POLICY

The Agency shall provide access to electronic copies of the Policy to all Agency staff.

IX. AMENDMENTS TO THE POLICY

The Policy shall be reviewed annually and revised as determined by the Agency and as requested by a Tribal Government of New Mexico's 22 Indian Nations, Tribe and Pueblos.

X. EFFECTIVE DATE

The Policy shall become effective upon the date signed by the Agency head.

The Agency hereby adopts the Policy:

Tod W. Stevenson
Tod W. Stevenson, Director
New Mexico Department of Game and Fish

12-16-2009
Date

Addendum A

Sample Procedures for State-Tribal Work Groups

DISCLAIMER: The following illustration serves only as sample procedures for Collaborative State-Tribal Work Groups. The inclusion of this Addendum does not mandate the adoption of these procedures by a collaborative work group. Whether these, or alternative procedures, are adopted remains the sole discretion of the Agency Head and/or as duly-delegated to the Collaborative Work Group.

Work Groups:

- A. **Membership on Work Groups** – The Agency shall solicit tribal membership on work groups. The Agency shall widely publicize the solicitation with the intent to reach all Tribes, and request the Tribes appoint Tribal members in writing for work groups. As state and Tribal leadership changes, work group membership shall be designated as appropriate.
- B. **Meeting Notices** – Written notices announcing meetings shall identify the purpose, work group, task force preliminary responsibility, time frame and other specific tasks. All meetings shall be open and widely publicized by the Agency offices and Tribal offices.
- C. **Work Group Procedures** – The work group may establish procedures to govern the meetings. Such procedures will include, but are not limited to, the following:
 - a. Selection of Tribal and Agency co-chairs to represent the work group and to serve as lead coordinators to ensure the tribal policy is adhered to;
 - b. Defining roles and responsibilities of individual work group members;
 - c. Process for decision-making to arrive at a final product, which may consist of direct participation in work groups or providing timely and written comments from Tribes and the Agency or both;
 - d. Process for determining drafting and dissemination of all final work group products, including data sharing materials subject to policy, procedures and/or Federal or State statutes; and
 - e. Defining an appropriate timeline; and
 - f. Attendance of meetings related to the work group. Members of the work group shall make a good faith effort to attend all meetings.
- D. **Work Group Responsibility** – The work group will develop final recommendations for the Agency and Tribal review and/or approval.

- E. Work Group Parameters – Agreed parameters shall determine the lines of authority, responsibility and boundaries, definition of issues and delineation of negotiable and non-negotiable points.
- F. Work Group Final Products – Once the work group has created a final draft recommendation or policy, it will initiate the following process to facilitate implementation or additional consultation:
 - i. Distribution – The work group will distribute the draft recommendation to the Tribal Governor or President, the Agency Head and Agency tribal liaison for review and comment.
 - ii. Comment – The Tribes and the Agency will return comments to the work group, which will meet in a timely manner to discuss the comments and determine the next course of action.
 - a. If the work group considers the policy to be substantially complete as written, the work group will forward the proposed policy to the group member agency and the Tribes for finalization.
 - b. The work group will record any contrary comments, disagreements and/or dissension in the final report.
 - c. If, based on the comments, the work group determines that the policy should be rewritten; it will reinitiate the consultation process to redraft the policy.
 - d. If the Agency and the Tribes accept the policy as is, the work group will accomplish the final processing of the policy.
- G. Recommendations – The Agency and Tribes should seriously consider any work group final recommendations for actions or implementation.
- H. Implementation – Once the collaboration process is complete and the Agency and Tribes have finalized the recommendation, the Agency and Tribal work group co-chairs shall be responsible for broadly distributing the final recommendation to the Agency departments and Tribal leaders.
- I. Evaluation – At the conclusion of the work group collaboration process, the work group participants shall participate in an evaluation of the work group collaboration process. The evaluation will measure outcomes and make recommendations for improving the work group collaboration process.

Addendum B

Sample Procedures for State-Tribal Consultation

DISCLAIMER: The following illustration serves only as sample procedures for State-Tribal Consultation. The inclusion of this Addendum does not mandate the adoption of these procedures. Whether these, or alternative procedures, are adopted remains the sole discretion of the Agency Head.

Tribal Consultation:

- A. Written Notification: Written notification for consultation by the Agency or Tribal Governments shall:
 - 1. Identify the proposed Programmatic Action to be consulted upon and provide information relating to the Programmatic Action.
 - 2. Identify personnel who are authorized to consult on behalf of the Agency or Tribal Government(s).
- B. Delegation: The Agency head may delegate consultation compliance oversight to the Agency Deputy Secretary or other senior Agency staff. A Tribal Governor or President may delegate consultation compliance oversight to a Tribal Official or delegated representatives.
 - 1. Consultation shall be between the Agency and Tribal Officials or their delegated representatives with authority to negotiate on their behalf. Consultation on a Programmatic Action requiring compliance with applicable Federal, State, or Tribal laws, shall be undertaken and coordinated by the Agency's head, Agency Division Directors and Bureau Chiefs, Agency Office of General Counsel, and selected Agency staff. Group Member State Agency staffs are encouraged to maintain regular informal communication and cooperation with Tribal Governments, Tribal Officials, and Tribal environmental, cultural or natural resources staff.
 - 2. The Agency and Tribal Governments shall identify and update points of contact on an annual basis.
- C. Consultation Process.
 - 1. Notification:
 - i. Within 10 days of receipt of a written request for consultation by one or more Tribal Governments delivered to the Agency head, the Agency shall contact the Tribal Government(s) to schedule a Tribal consultation meeting before final agency action.

- ii. Upon a written invitation for consultation by the Agency head to one or more Tribal Governments:

- 2. The Tribal Government(s) shall accept the invitation within 10 days. If no Tribal Government accepts the invitation, the State shall issue a second written invitation to the Tribal Government(s). If no Tribal Government accepts the second invitation within 10 days, the Agency will conclude that Tribal consultation is not required and may proceed with the proposed Programmatic Action.

2. Consultation:

- i. The Agency shall contact the Tribal Government(s) within 30 days of receipt of a request for consultation to schedule a meeting. The Agency encourages meeting with all interested Tribal Government(s) at one time, but will meet with individual Tribal Governments at the request of the Tribal Governor, President, or other delegated Tribal Official.
- ii. The Tribal Government(s) may submit written comments to the Agency within an agreed upon time frame after the initial meeting. The Tribal Government(s) also may request an additional meeting with the Agency.
- iii. The Agency shall schedule additional meetings as deemed necessary by the Agency or requested by the Tribal Government(s).

Appendix B

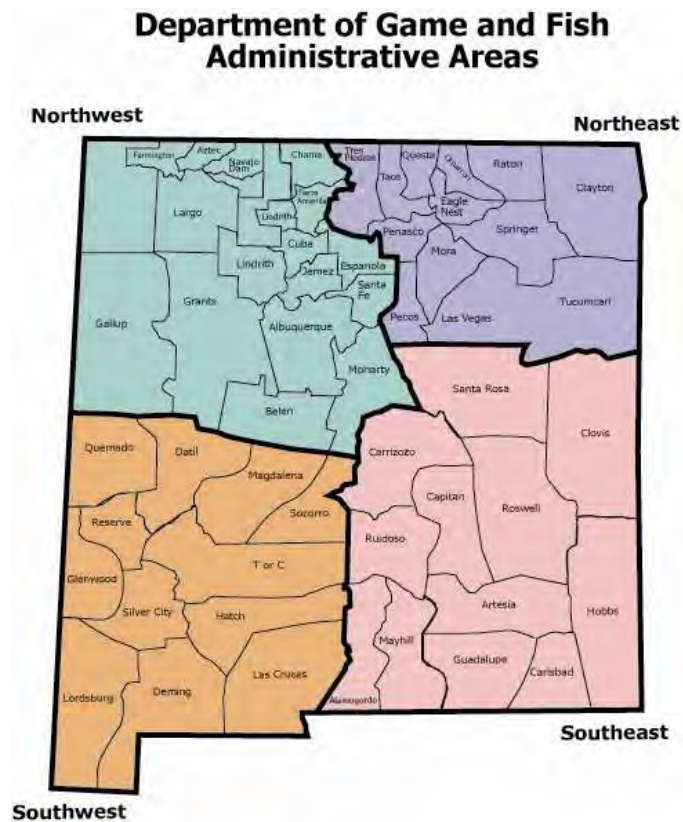
Relevant Agency Regulations, State or Federal Statutes

- Chapter 17 NMSA 1978
- State-Tribal Consultation Act - (STCA) 11-18-3 NMSA 2009
- EO 2005-003 Adoption of Statewide Consultation Policy on the Protection of Sacred Places and Repatriation
- EO 2005-004 Statewide Adoption of Pilot Tribal Consultation Plans
- Governmental Dispute Prevention and Resolution Act (12-8A-1 NMSA) as amended 2007
- Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k, 64 Stat. 430)
- Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i; 50 Stat. 917)
- Section 106, National Historic Preservation Act 1966
- NM Cultural Properties Act 18-6-1 through 18-6-23 Sections 18-6-8.1, 18-6-5, 18-6-11.2 NMSA 1978
- Public Lands and Natural Resource Gaining Access Into Nature regulation 19-34-3.13 NMSA 2009

Appendix C

Maps

The following depicts NMDGF administrative areas and conservation officer districts:



Appendix D

Glossary or Definitions of Special Agency Terms and Acronyms

Acronym	Definition
NMDGF	New Mexico Department of Game and Fish
STCA	State Tribal Collaborative Act
NMSHPO	New Mexico State Historic Preservation Office
FWS	United States Fish and Wildlife Service
BIE	Bureau of Indian Education
NMSA	New Mexico Statute Administrative Code
CFR	Code of Federal Regulation
CFDA	Catalogue of Federal Domestic Assistance
SPO	State Personnel Office
NMSGC	New Mexico State Game Commission

Appendix E

Agreements, MOUs/MOAs with Tribes That are Currently in Effect

Tribe	Agencies	Activity	Agreement Name	Status	Contact	Phone #
Regional federally recognized tribes were invited as consulting parties	NMDGF	NHPA Section 106	PROGRAMMATIC AGREEMENT REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT FOR GRANTS FUNDED BY THE WILDLIFE AND SPORT FISH RESTORATION PROGRAM IN NEW MEXICO AMONG THE U.S. FISH AND WILDLIFE SERVICE, REGION 2, U.S. DEPARTMENT OF THE INTERIOR; THE NEW MEXICO STATE HISTORIC PRESERVATION OFFICER; AND THE NEW MEXICO DEPARTMENT OF GAME AND FISH	current	Jack Young	(505) 476-8000
Jicarilla	NMDGF	Importation of fish and cervids into New Mexico, on the Jicarilla lands	MEMORANDUM OF UNDERSTANDING BETWEEN THE JICARILLA GAME AND FISH DEPARTMENT AND NEW MEXICO DEPARTMENT OF GAME AND FISH REGARDING THE IMPORTATION OF FISH AND CERVIDS	current	Stewart Liley	(505) 476-8000
Jemez	NMDGF	Tererro cave and protocol for traditional use of cultural sites by the Pueblo	MEMORANDUM OF AGREEMENT BETWEEN THE PUEBLO OF JEMEZ AND THE STATE GAME COMMISSION THROUGH THE NEW MEXICO DEPARTMENT OF GAME AND FISH REGARDING THE CULTURAL HERITAGE PROPERTY KNOWN AS TERRERO CAVE WITHIN THE TERRERO CAMPGROUND IN PECOS CANYON	current	Jack Young	(505) 476-8000