

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

Table of Contents

- .01 Purpose
- .02 Objectives
- .03 Authorities
- .04 Responsibility
- .05 References
- .06 Policy
- .07 File and Records Maintenance
- .08 Program Relationships

Glossary of Terms

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

.01 Purpose. This Manual Section is intended to provide an easily accessible reference source within the BLM Manual system for general information and general policy on BLM's various coordination, consultation, and fiduciary responsibilities with respect to Native American cultural and religious concerns; to clarify legal relationships between BLM and Native American groups relative to such concerns; and to bring attention to administrative and management issues arising from those responsibilities and relationships. This Manual Section does not provide operational policy or procedures for individual management programs and administrative processes. Such policy and procedures are covered in specific directives under the appropriate subject-function code.

.02 Objectives.

A. Inform managers and staffs of the responsibilities of various BLM programs for ensuring that Native American issues and concerns are given equitable and legally adequate consideration during decision making.

B. Describe the special legal entitlements of tribal governments and other Native American groups relative to management of the public lands and public land resources.

C. Promote regular exchange of information among programs having responsibilities for identifying and considering Native American issues and concerns.

D. Provide guidance for collecting, evaluating, applying, and protecting sensitive information relating to Native American concerns.

E. Recognize the Bureau's ongoing fiduciary responsibility toward Native American resource development and protection programs on Indian lands.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

.03 Authorities.

A. General Authorities.

1. National Environmental Policy Act of 1969 ("NEPA"; P.L. 91-190; 83 Stat. 852; 42 U.S.C. 4321) establishes national policy for protection and enhancement of the human environment. Part of the function of the Federal Government, as stated in the Act, is to "preserve important . . . cultural . . . aspects of our national heritage and maintain whenever possible an environment which supports diversity and variety of individual choice."

2. Federal Land Policy and Management Act of 1976 ("FLPMA"; P.L. 94-579; 90 Stat. 2743; 43 U.S.C. 1701) requires coordination with Indian tribes, as well as with other Federal agencies and State and local governments, in the preparation and maintenance of an inventory of the public lands and their various resource and other values; in the development and maintenance of long-range plans providing for the use of the public lands; and in the management of the public lands.

3. Alaska National Interest Lands Conservation Act of 1980 (P.L. 96-487; 94 Stat. 2371; 16 U.S.C. 3101) establishes various conservation system units in Alaska to preserve lands and waters with nationally significant values, including historic, archaeological, and cultural values. The Act directs that, consistent with the conservation of healthy populations of fish and wildlife, utilization of public lands in Alaska is to cause the least impact on rural residents who depend on subsistence uses of the resources of such lands. The Act also authorizes the Secretary, upon request, to advise, assist, and provide expertise to a Native corporation or group for preservation, display, and interpretation of cultural resources, and to provide training in identification, recovery, preservation, demonstration, and management of cultural resources.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

B. Authorities Specific to Native Americans

1. American Indian Religious Freedom Act of 1978 ("AIRFA"; P.L. 95-341; 92 Stat. 469; 42 U.S.C. 1996) resolves that it shall be the policy of the United States to protect and preserve for the American Indian, Eskimo, Aleut, and Native Hawaiian the inherent right of freedom to believe, express, and exercise their traditional religions, including but not limited to access to religious sites, use and possession of sacred objects, and freedom to worship through ceremonials and traditional rites. Federal agencies are directed to evaluate their policies and procedures to determine if changes are needed to ensure that such rights and freedoms are not disrupted by agency practices. The Act, a specific expression of First Amendment guarantees of religious freedom, is not implemented by regulations. (Note: A U.S. Court of Appeals has determined that there is a compliance element in the American Indian Religious Freedom Act, requiring that the views of Indian leaders be obtained and considered when a proposed land use might conflict with traditional Indian religious beliefs or practices, and that unnecessary interference with Indian religious practices be avoided during project implementation, but specifying that conflict need not necessarily bar Federal agencies from adopting proposed land uses in the public interest. Wilson v. Block, 708 F.2d 735, 747 (D.C. Cir. 1983)).

2. Indian Reorganization Act of 1934 (P.L. 73-576; 48 Stat. 984; 25 U.S.C. 461) establishes tribal self government for many Indian communities. The Act further provides for the adoption of tribal constitutions and the incorporation of tribal governments. Tribal governments, so constituted, have primary jurisdiction over the lands of the tribe and are empowered to negotiate with Federal, State and local governments in all matters affecting the tribe. Pursuant to this Act, tribal governments are judicially considered to hold sovereign immunity in all governmental matters affecting the tribe (425 US 903, 96 S.Ct. 1492, 47 L.Ed2d. 752 (1976)).

3. Indian Self Determination and Education Assistance Act of 1975 (P.L. 93-638; 88 Stat. 2203; 25 U.S.C. 450) provides direct and primary authority to tribal governments to contract and regulate programs and services, and also provides authority for tribal governments to acquire lands adjacent to reservations for purposes of the Act.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

4. Alaska Native Claims Settlement Act of 1971 (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601) establishes a "fair and just settlement of all claims by Natives and Native groups in Alaska, based on aboriginal land claims," with the settlements to be "accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives . . . [and] with maximum participation by Natives in decisions affecting their rights and property"

5. Indian Mineral Development Act of 1982 (P.L. 97-382; 96 Stat. 1938; 25 U.S.C. 2101) provides authority to Indian tribes to develop mineral resources, and to enter into joint venture agreements, operating agreements, and leases. The Act conveys and extends tribal authority to regulate and cooperate with private and governmental entities in the development of tribal energy and nonenergy mineral resources. Related authorities that give BLM direct involvement in mineral operations on allotments and tribal lands, respectively, include the Act of March 3, 1909, as amended (P.L. 60-315; 35 Stat. 783; P.L. 84-255; 69 Stat. 540; 25 U.S.C. 396), and the Act of May 11, 1938 (P.L. 75-506; 52 Stat. 347; 25 U.S.C. 396a).

6. Indian General Allotment Act of 1887 as amended (R.S. Chap. 119; 24 Stat. 389; 25 U.S.C. 334) provides for the allotment of lands to individual Indians for the purpose of settlement and subsistence through pastoral pursuits. Similar provisions were made for Alaska Natives in a 1906 Act (P.L. 59-171; 34 Stat. 197; 48 U.S.C. 357).

C. Authorities Specific to Cultural Resources.

1. National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915; 16 U.S.C. 470) addresses preservation of historic properties, including historical, archaeological, and architectural districts, sites, buildings, structures, and objects that are eligible for the National Register of Historic Places. In some cases such properties may be eligible partly or wholly because of historical importance to Native Americans, including traditional religious and cultural importance. Federal agencies must take into account effects of their undertakings on eligible properties. A 1980 amendment to the Act (P.L. 96-515; 94 Stat. 3000; 16 U.S.C. 470a note) directs the Secretary in cooperation with the American Folklife Center of the Library of Congress to explore ways to preserve and conserve intangible elements of our cultural heritage and to encourage continuation of diverse cultural traditions (see .03C3 below).

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

2. Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470aa) provides for the protection and management of archaeological resources, and specifically requires notification of the affected Indian tribe if archaeological investigations proposed in a permit application would result in harm to or destruction of any location considered by the tribe to have religious or cultural importance. The Act directs consideration of the American Indian Religious Freedom Act (see .03B1 above) in the promulgation of uniform regulations for the Act.

3. American Folklife Preservation Act of 1976 (P.L. 94-201; 86 Stat. 1129; 20 U.S.C. 2101) creates the American Folklife Center in the Library of Congress and directs the Center to preserve and present American folklife through internal and cooperative programs. (See .03C1 above.)

D. Treaties. Treaties constitute negotiated settlements between sovereign parties, and as such hold a unique status in defining Federal obligations toward Indian tribes. Rights reserved to Indian tribes vary significantly from treaty to treaty. Hunting, fishing, and gathering rights and certain other land uses are the most common rights reserved through treaty. Tribes often refer to treaties in representing their interests and validating their position in contacts with Federal agencies. While BLM managers and appropriate professional staffs should be aware of the terms of relevant treaties, the BLM's specific responsibilities are defined through Federal law and regulations.

.04 Responsibility.

A. Director and Deputy Director have overall responsibility for establishing, implementing, and evaluating policy for meeting BLM's Native American coordination responsibilities.

B. Assistant Directors for Land and Renewable Resources, Energy and Mineral Resources, and Support Services, acting through their respective divisions and staffs as appropriate to the resource programs or administrative processes involved, are jointly responsible for developing the specific program- or process-related guidance, procedures, and directives needed to ensure that Native American coordination is carried out consistently among the BLM's various programs and offices.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

C. Chief, Division of Recreation, Cultural, and Wilderness Resources and Chief, Branch of Recreation and Cultural Resources, are responsible for leading affected divisions and staffs in developing, reviewing, and revising BLM's national level Native American coordination and consultation policy and procedures, and for maintaining contacts with other Federal bureaus, agencies, and departmental offices in Washington, D.C., regarding the proper consideration of Native American concerns.

D. State Directors, within their respective jurisdictions, are responsible for:

1. Directing the accomplishment of Native American coordination and consultation responsibilities.

2. Developing technical and policy guidance, information, strategies, procedures, and directives as required.

3. Establishing and maintaining contacts with other regional level Federal bureaus, agencies, and departmental offices regarding Native American concerns.

4. Developing and distributing to District Offices listings of federally recognized Indian tribes, and other Native American groups as appropriate, residing within their areas of administrative jurisdiction.

E. District Managers or Area Managers, as appropriate, are responsible for:

1. Identifying Indian tribes, Indian groups that have petitioned the Secretary for recognition as Indian tribes, and other Native American groups that have aboriginal and/or historic ties to lands under their administrative jurisdiction, regardless of where the tribe or group currently resides.

2. Identifying Native American concerns relating to BLM plans, actions, and programs within their respective areas of jurisdiction.

3. Giving adequate consideration to identified Native American concerns.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

F. Cultural Resource Specialists, in consultation with other knowledgeable staff, are responsible for providing professionally sound information, recommendations, and advice to managers regarding traditional Native American uses of public lands, Native American traditional lifeway values, and cultural properties that may be associated with those values.

G. All Personnel are responsible for ensuring that their actions and recommendations do not overlook Native American concerns; for reporting to appropriate officials any Native American concerns that are identified to them; and for assisting in the BLM's execution of its Native American coordination and consultation responsibilities.

.05 References.

A. BLM Manual Sections 1601, 1602, 1611, 1612, 1613, 1614, and 1615.

B. BLM Manual Section 1790 and Handbook H-1790-1.

C. BLM Manual Section 8111.

.06 Policy. It is the policy of the BLM to:

A. Recognize traditional Native American cultural and religious values as an important, living part of our Nation's heritage, and develop the capability to address adequately any potential disruption of the traditional expression or maintenance of these values that might result from BLM land use decisions.

B. Coordinate and consult regularly with appropriate Native American groups to identify and consider their concerns in BLM land use planning and decision making, and document fully all coordination and consultation efforts.

C. Review proposed land use planning decisions and other major BLM decisions for consistency with tribal land use and resource allocation plans (including Alaska Native village or regional corporation plans, as applicable).

D. Participate in developing consistent interagency guidance, procedures, and expertise to address Native American and tribal government policies and programs.

E. Avoid unnecessary interference with Native American religious practices.

.06F

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

F. Protect sensitive and confidential information about Native American values, practices, and specific locations with which they are associated from disclosure to the public, to the greatest degree possible under law and regulation.

.07 File and Records Maintenance. See BLM Manual Section 1272 - Records Disposition; Manual Section 1602 - Plan Documentation and Records; Handbook H-1790-1 - National Environmental Policy Act Handbook; and Manual Section 8111 - Cultural Resource Inventory and Evaluation.

.08 Program Relationships.

A. Relationship to BLM Programs. While specific instances of Native American coordination and consultation may focus on particular lands and resources and a single BLM management program, Native American concerns will frequently cross-cut program boundaries and involve several programs simultaneously. The BLM's land use planning system and environmental review process, which generally operate at a level above individual programs and actions and which include effective mechanisms for public participation, are well suited to identifying and addressing Native American issues and concerns.

1. Relationship to General Administrative Procedures. Land use planning and environmental review shall be the principal procedural systems for giving Native American cultural and religious issues due consideration, including the opportunity for direct input from those affected. During the collection and evaluation of land use and resource information, before the preparation of land use plans and environmental documents, responsible managers and staff shall employ appropriate techniques to ensure the identification and consideration of Native American cultural and religious values potentially affected by BLM land use decisions. At a minimum, Native American cultural and religious issues shall be addressed during public participation and inventory steps, as outlined below:

a. Public Participation. Native American issues and concerns shall be identified, to the extent possible, through standard public participation techniques (e.g., scoping, public notices, and informational mailings). In addition, managers shall establish any additional effective means necessary for notifying Native American groups of any proposed actions which may affect traditional religious or cultural practices. In some cases this may necessitate direct face-to-face communication with persons such as traditional religious practitioners who are not official governmental representatives of affected groups.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

b. Inventory. At the initiation of planning and environmental review, interdisciplinary teams should be used to define and consider Native American issues and conflicts as they apply to various proposed program decisions and actions.

(1) Special techniques may be needed to identify relevant information. These techniques may include:

(a) Review of ethnohistoric and ethnographic literature.

(b) Interviews with knowledgeable members of the Native American community, who may or may not be official representatives of the tribal government or Native corporation.

(c) Problem-oriented ethnographic field work focusing on Native American cultural and religious values.

(2) Interviews and ethnographic field work should be limited to cases where little or no information exists on the specific Native American communities. Before any proposed ethnographic field work or related long-term data collection projects are begun, they must be reviewed by BLM planning and resource management personnel and approved by the responsible manager, and they must also be reviewed and approved by appropriate official representatives of the specific Native American communities where field work would be conducted. The BLM must observe appropriate safeguards for collection and use of, and access to, potentially sensitive information acquired through interviews and direct ethnographic techniques. This may include locational information and the names of interview subjects or other contacts who are not official governmental representatives of affected groups.

c. Consideration During Decision Making. Managers shall ensure that information on Native American religious and cultural issues receives good faith consideration during decision making, and that BLM decisions do not unduly or unnecessarily burden the pursuit of traditional religion or traditional lifeways.

d. Consultation and Consistency Review. As part of its responsibilities under Sec. 202(c)(9) of FLPMA as implemented by 43 CFR 1610.3-2, the BLM shall, to the extent practicable, ensure consistency with affected Native American tribal or corporate land use and resource allocation plans. Native American cultural and religious issues shall be part of this consistency review.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

e. Special Designations. Designation of Areas of Critical Environmental Concern, nomination to the National Register of Historic Places, recommendation to the Secretary for designation of National Historic Landmarks, and other appropriate forms of special recognition may be proposed and should be considered as potential means for ensuring continuing attention to Native American cultural concerns.

f. Documentation. Environmental impact statements and environmental assessments should ordinarily serve as the primary documentation of the identification steps taken and the consideration given to Native American cultural and religious concerns. When determining the need for NEPA review, care must be taken not to overlook the potential impact of the proposed BLM action on Native American cultural or religious values. If for any reason a NEPA document will not be prepared, an appropriate non-NEPA document should be used to substantiate identification and consideration of Native American concerns.

g. Agreements. Written agreements, such as Memoranda of Understanding between the BLM and Native American groups, may be considered for development where needed to define relationships, issues of concern, contacts, and coordination and consultation procedures.

2. Relationship to Specific BLM Resource Management Programs. While identification and consideration of Native American cultural and religious concerns occur during land use planning and environmental review, rather than during day-to-day program operations, program staff are responsible for assisting managers in recognizing potential program conflicts with identified concerns, and for ensuring that day-to-day operations follow steps decided on in land use plans and NEPA documents.

a. Lands. Lands actions that would change the ownership or the use of public lands may require attention to Native American concerns. Land tenure adjustments, withdrawals, and occupancy and use authorizations may require particular consideration of Native American needs and requests (e.g., continued access for religious practices or traditional uses, tribal land base expansion). Some Lands actions, such as allotments and trust land annexations, pertain only to Native American applicants. These applications shall be processed in the same manner as other (over-the-counter) applications and proposals made by non-Native citizens, unless specified and prioritized in an approved land use plan or amendment. Applications submitted by tribal governments can be presumed to meet coordination and consultation requirements.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

b. Minerals. Native American concerns should be considered when mineral development is proposed within areas having traditional cultural or religious importance. For example, the lessee may be required to design operations on an oil and gas lease in a manner that preserves access to a traditional use area, or stipulations may be included in a geothermal lease to protect sacred hot springs. The BLM also administers mineral leases and other mineral activities for certain allotted and unallotted Indian lands in accordance with authorities in .03B5, above, as implemented by 25 CFR Parts 211-214 and Part 216. Such mineral administration is not subject to coordination and consultation under this Manual Section.

c. Rangeland. Due consideration must be given to Indian tribal rights established by treaties, and to requests by tribes consistent with such rights, in the administration of the grazing management and range improvement programs. For example, grazing season of use may need to be adjusted to accommodate traditional use of certain resources. Similarly, proposed vegetation treatments such as burning, chaining, spraying, and seeding may need to be weighed in terms of tribal needs for maintenance of traditional plant use zones.

d. Forestry. Proposed resource allocations and use authorizations should be sensitive to Native American requirements for the noncommercial use of renewable forest and woodland products (e.g., firewood, house logs, food plants, medicinal plants, ritual plants), and should accommodate demand when possible. Monitoring may be needed to evaluate such uses. Discretionary forest and woodland management activities (e.g., herbicide spraying, commercial pinyon nut harvesting) should involve tribal input, as appropriate. Special authorizations relating to subsistence uses in Alaska will follow developed policy in that State.

e. Wildlife and Fisheries. Where treaties provide for usual and accustomed uses of fish and wildlife in ceded or other lands, habitat management plans and improvement projects should give priority consideration to providing benefits for species traditionally used by affected tribes. Native American concerns should be considered also when developing management plans and recovery plans for species valued for nonsubsistence reasons (e.g., eagles).

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

f. Soil, Water, and Air. Any proposed action that would affect water use must provide for Native American water requirements in accordance with established treaty rights and as confirmed by the responsible State water right authority or pertinent legal decisions. Native American water rights based on reserved water rights are not covered by State law but in many cases have been perfected under State water right adjudications. Where reserved rights are not certain, it may be necessary to clarify these rights through the Office of the Solicitor.

g. Cultural Resources. Cultural resource inventory and evaluation, use allocations, National Register nominations, use permits, public interpretation, and protection projects may require consultation with Native American groups as appropriate to the nature of the cultural resources or the areas affected. For example, identification of tribal traditional lifeway values and public land cultural properties associated with those values, and preparation of ethnological/sociological elements in class I inventories may include participation by tribal consultants and tribal review for accuracy and sufficiency.

h. Recreation. Native American cultural and religious concerns should be considered when collecting recreation inventory information, preparing recreation management plans, establishing use limitations, and processing special recreation use permits. For example, visual resource management classification should account for landscapes with attributed sacredness; seasonal off-road vehicle limitations might be necessary when traditional uses could be disrupted; and areas used for subsistence or ritual activities might need to have organized recreation use channeled away from them. Programs and materials for interpreting areas or subjects related to traditional Native American cultures and practices should consider and incorporate the perspectives of the Native Americans as appropriate.

i. Wilderness. Wilderness study reports and wilderness management plans should recognize areas used historically for Native American traditional activities, such as gathering medicinal plants and conducting religious ceremonies. Access by elders or other traditionalists who may require motorized transportation should be given special consideration. Although wilderness designation may protect traditional use areas from incompatible use or development, designation and management as wilderness may also have the unintended effect of disrupting established traditional uses. Potential conflicts should be identified and considered early in the process, and avoided as

much as possible.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

B. Relationship to Other Federal Agencies.

1. Planning. In the review of other Federal agencies' land use plans under Section 202(c)(9) of FLPMA and 43 CFR 1610.3-2, special attention should be given to consistent interagency recognition and consideration of Native American issues and concerns.

2. Environmental Review. When BLM acts as lead agency for the environmental review of a proposed action that would affect other agencies' lands, BLM is responsible for identifying Native American concerns and issues for all potentially affected lands, through consultation with cooperating agencies, through the NEPA scoping process, and through other appropriate information gathering methods.

3. Exchange of Information. The BLM and other Federal agencies should routinely share pertinent nonconfidential information about Native American concerns and issues. Sensitive information obtained under promise of confidentiality may not be shared without explicit permission from its source.

4. Cooperation. The BLM should explore opportunities with other Federal agencies to foster and improve opportunities for tribal governments and other Native American groups to enter into cooperative agreements (e.g., education, training, interpretation, museum work/curation, basic data collection, and ethnographic inventory) with Federal agencies. Potentially sensitive programs which may involve several agency jurisdictions should be coordinated to the greatest degree possible (e.g., Wild and Scenic River designations in areas of Native fisheries).

C. Relationship to State and Local Governments.

1. Consistency. In addition to land use planning consistency under Section 202(c)(9) of FLPMA and 43 CFR 1610.3-2, the BLM shall ensure that its policies and procedures are consistent, to the extent allowed by Federal law, with State and local government requirements relating to Native American concerns. The BLM should implement its programs, as they relate to Native American concerns, as consistently as practical with State and local laws and ordinances. However, where Federal lands are concerned, Federal law has precedence over State and local law.

2. Exchange of Information. The BLM should share information relating to Native American issues and concerns with State and local governments in the same manner and with the same

limitations as outlined in .08B3 above.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

D. Relationship to Native American Governments.

1. Federally Recognized Tribes. The governments of federally recognized tribes are the legal representatives for ensuring that tribal members may exercise rights and privileges held through treaties, executive orders, and agreements with the United States, both on and off reservations. The special legal status of tribal governments requires that official relations with BLM, including coordination and consultation pursuant to this Manual Section, be conducted on a government-to-government basis. Authorities and responsibilities of specific tribal governments are defined in the constitutions and bylaws of the individual tribes.

2. Alaska Native Corporations. The BLM in Alaska relates to regional profit and nonprofit Native corporations established under provisions of the Alaska Native Claims Settlement Act (see .03B4 above) as the primary units for Native American coordination and consultation concerning certain lands and planning issues. The BLM also coordinates with the regional profit and nonprofit Native corporations to identify any additional needs for involving Alaska Native groups in coordination and consultation.

E. Relationship to Native American Advocacy Groups. The BLM notifies and considers the views of groups advocating positions of general interest to Native Americans in the same manner as it notifies and considers the views of other advocacy or special interest groups. The concerns of these groups are considered through BLM's normal land use planning and NEPA compliance processes.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

Glossary of Terms

(See also Manual Section 8100, Glossary of Terms.)

-E-

ethnography: structured and systematic, fieldwork-based study and description of specific cultures.

ethnohistory: study of a cultural group's past based on the group's own historical record, especially oral tradition.

-F-

fiduciary responsibility: the trust responsibility of the United States, executed through the Secretary of the Interior, to uphold obligations of the Federal Government to Native American groups. Court decisions have interpreted this responsibility to extend to all Federal agencies. For BLM, this obligation requires a reasonable and good faith effort to identify and consider, and to carry out programs in a manner sensitive to and consistent with, Native American concerns and tribal government planning and resource management programs.

-G-

government-to-government relationship: the formal relationship that exists between agencies of the Federal Government and tribal governments under the laws of the United States. Tribal governments are considered domestic sovereignties with primary and independent jurisdiction (in most cases) over tribal lands. Concerning BLM actions, the same level of consideration and consistency review provided to other agencies or governmental jurisdictions must be afforded to Indian tribes.

-I-

Indian group: any Indian aggregation within the conterminous United States, which the Secretary of the Interior has not recognized as possessing tribal status.

Indian lands: lands held in trust by the United States for individual Indians or tribes, or lands titled to individual Indians or tribes subject to Federal restrictions against alienation or encumbrance.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

Indian tribe: any Indian group in the conterminous United States that the Secretary of the Interior recognizes as possessing tribal status (listed annually in the Federal Register).

-N-

Native American: a member of any of the indigenous cultural groups of the western hemisphere, including American Indians, Alaska Natives, Native Hawaiians, and other indigenous peoples.

-R-

reservation: lands acquired in ownership by Indian tribal governments through aboriginal possession, treaty, act of Congress, Executive action (including action by the Secretary of the Interior pursuant to certain statutes), and/or by action of a colony, State, or foreign nation.

reserved rights: those rights not specifically ceded in a treaty or agreement are considered to be reserved consistent with the purposes of the United States and the Indians entering into a transaction or formal relationship. Rights may include hunting, fishing, and gathering privileges, or water and other resource use guarantees.

-S-

subsistence use: the customary and traditional use by Native Americans of renewable resources on the public lands. For Alaska, specific statutory definition of "subsistence uses" is ". . . the customary and traditional uses by rural Alaska residents of wild renewable resources for direct personal or family consumption as food, shelter, clothing, tools, or transportation; for the making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade."

-T-

tradition: longstanding, socially conveyed, customary patterns of thought, cultural expression, and behavior, such as religious beliefs and practices, social customs, and land or resource uses. Traditions are shared generally within a social and/or cultural group and span generations.

8160 - NATIVE AMERICAN COORDINATION AND CONSULTATION

traditional: conforming to tradition.

treaty: a formal agreement between the United States and one or more Native American groups. Typically, these agreements ceded lands to the United States, reserving certain rights, privileges, and/or lands to the Native American signatories.

tribal government: the formal representative governing body of a reservation or Indian community (as defined in 25 CFR 61 and published annually in the Federal Register).

tribe: (See "Indian tribe.")

trust responsibility: the same as "fiduciary responsibility" for purposes of this manual section. (See "fiduciary responsibility.")