



2019 Tribal Consultation Report

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2019 Department of Interior Tribal Consultation Annual Report

The annual report is a summary of BOEM consultations during one fiscal year. The information in the Annual Report is a summary and was compiled from all the information captured during the FY 2019 fiscal year.

I. Summarize and list all of the consultation topics.

BOEM reaches out to federally-recognized tribes that have a connection to a proposed BOEM action. BOEM conducts consultation with those tribes through a variety of approaches, depending on the scope, scale and significance of an undertaking. This could include face-to-face, government-to-government meetings for complex, controversial, or large-scale actions; other approaches include letters sent by certified mail, followed up with phone calls and emails. BOEM tribal liaisons also answer questions and requests for information and tribal staff as requested on a case by case basis.

Atlantic Region:

BOEM led outreach to federally recognized tribes along the Atlantic Coast in the proposed program areas for these actions.

Atlantic Renewable Energy Programs:

In February 2019, BOEM met with the Mashpee Wampanoag Tribe to give an update on the status of the Vineyard Wind offshore wind energy project, and on the general progress of other offshore wind projects on the Atlantic coast. One outcome of this meeting was a request to use electronic communication with the tribe to help reduce the paperwork for tribal consultation.

A second round of government-to-government consultations was initiated in August and September 2019. The goal of these meetings is to continue updates to Tribes on the overall progress of offshore wind in the Atlantic, in anticipation of up to 12 construction operation plans in the upcoming year.

With these goals in mind, BOEM met with the Narragansett Indian Tribe of Rhode Island and the Mashpee Wampanoag Tribal government in August 2019; and the Shinnecock Indian Nation in September 2019. The Narragansett emphasized the continuing issue of a lack of funding for Tribal programs, especially for carrying out consultation with federal agencies. Building Tribal capacity continues to be concern, both for historic and ecological resources. BOEM and the Narragansett agreed to develop and sign a Memorandum of Communication to facilitate future consultation.

The meeting with the Mashpee Wampanoag Tribe emphasized the tribe's interest in potential economic development opportunities from offshore wind industry development, along with questions about decommissioning, and questions about how the offtake cables for multiple wind

projects will be cited in the future. BOEM agreed to facilitate communication with the offshore wind companies when possible and consult on the issues of decommissioning and electrical export cables through the NEPA and NHPA process.

A government to government meeting was held with the Shinnecock Nation on September 19, 2019. This meeting included environmental and historic preservation staff, as well as the leadership and council of the nation. The goal was to re-initiate consultation with this tribe and continue to provide updates on the Atlantic offshore wind energy development, with an emphasis on proposed development of the New York Bight. Tribal concerns include maintaining the workload for federal agency compliance, as well as broad scale concerns about the possible environmental effects from long-term offshore wind development. The tribe is interested in the results of windfarms in Europe and Asia, and how the experience may inform U.S. offshore wind development.

On October 16, 2018, BOEM shared with the Mashantucket (Western) Pequot Tribal Nation, the Mashpee Wampanoag Tribe, the Mohegan Tribe of Indians of Connecticut, the Narraganset Indian Tribe, the Shinnecock Indian Nation, and the Wampanoag Tribe of Gay Head (Aquinnah) the preliminary terrestrial archaeological resources report, the preliminary marine archaeological resources report, the complete visual impact assessment and visual simulations report, and the complete report assessing effects to historic properties within the view shed Area of Potential Effect (APE) for the Vineyard Wind project. (The Area of Potential Effect is any area where an offshore wind turbine is visible to a person)

Alaska Region:

The BOEM-Anchorage Office took part in the annual Alaska Federation of Natives Convention (in Anchorage) providing a booth and representatives to meet with attendees and leaders from across Alaska and the nation. More than 4,200 people took part in the event.

That was followed up with hosting a similar booth at the annual BIA Providers Conference with 2,500 people attending over a span of one week - just in front of Thanksgiving this particular year. The Providers Conference is the second of several large outreach events that the BOEM-Anchorage Office takes part in annually.

This became an extraordinarily challenging fiscal year for the BOEM-Anchorage Office on November 30th when a major earthquake took place and effectively shut down key parts of Southcentral Alaska. In Anchorage, building inspectors spent a week moving from building to building, block by block, evaluating damage and determining if facilities could be reoccupied. It was this very week that had been scheduled for travel to North Slope villages to consult with the tribes and ANCSA corporations regarding the Proposed Arctic Rule. The program was reset for second week of December and three weeks of travel were condensed to two-weeks in order to get the mission accomplished prior to being furloughed in the new calendar year.

With the new schedule, we launched out to the Bush on Monday, December 10th, to Kotzebue and 'ran' the coastal villages north from there (OTZ) during the week to Point Hope, Point Lay, and Wainwright with return to Anchorage on that Friday, December 14th.

Monday morning, December 17th, we returned to the North Slope, starting this leg of our travel in Utqiagvik (Barrow). In general, two-days are set aside for meeting and consulting with about five to six different entities in Utqiagvik. Subsequent days, we traveled to Nuiqsut, Kaktovik, and Fairbanks enroute home to Anchorage on Thursday afternoon, December 20th.

On Saturday, December 22nd, most of the Federal government was furloughed for what turned out to be one entire month. This is important to note because we were unable to do follow-up with the tribes and corporations to assure questions, comments or clarifications, etc., were addressed in a timely fashion. Fortunately, our partners were very understanding of the situation we'd been in.

Proposed Arctic Rule Consultations

- Kotzebue IRA
- Tri-Lateral Consultation with Native Village of Point Hope, Tikigaq Corporation (ANCSA), and the City of Point Hope
- Native Village of Point Lay
- Native Village of Wainwright
- Native Village of Barrow (Utqiagvik)
- Inupiat Community of the Arctic Slope - Utqiagvik
- Alaska Eskimo Whaling Commission - Utqiagvik
- Native Village of Nuiqsut
- Kuukpik Corporation (ANCSA)
- Native Village of Kaktovik
- Tanana Chiefs Conference - Fairbanks

Gulf of Mexico Region:

The Gulf of Mexico Region (GOMR) continued consultation with the Southern Ute Indian Tribe, initiated in September 2018, regarding BOEM's proposed rulemaking to revise financial security requirements for offshore oil and gas lease holders. The Southern Ute Indian Tribe wholly owns Red Willow Production Company, an energy company which holds offshore oil and gas interests that may be affected by the proposed rulemaking. All parties agreed to reinstate consultations once the draft rule is published. A publication date has not been determined.

The GOMR did not conduct any additional official consultation meetings during the reporting period; however, the thirteen Gulf-affiliated tribes were contacted either for informational outreach or with requests for consultation in support of the Bureau's other activities, including the Final Supplemental EIS for the proposed 2018 Gulf of Mexico Outer Continental Shelf Lease Sale (2018 Lease Sale EIS), the 2019-2024 Draft Proposed National Oil and Gas Program, and development of a Supplemental EIS for the proposed 2020-2022 Gulf of Mexico Outer Continental Shelf Lease Sales. No tribal responses or requests to consult were received for any of these activities.

Pacific Region:

In FY 2019, the Pacific OCS Office conducted one government-to-government consultation meeting and one informational meeting on the Draft Proposed 2019-2024 National OCS Oil and Gas Leasing Program (a continuation of FY 2017-2018 efforts).

The Pacific OCS Office invited consultation under Section 106 of the National Historic Preservation Act with 47 federally recognized tribes in California and two tribes in southern Oregon on the development of a Programmatic Agreement to govern the National Historic Preservation Act Section 106 review process for wind energy activities on the OCS offshore California. Eight tribes participated in a web-based consultation meeting and were invited to review and edit the draft Programmatic Agreement. One Section 106 consultation was held regarding potential offshore wind energy leasing off the central coast of California.

The Pacific OCS Office also engaged with tribes regarding the status of the National OCS Oil and Gas Leasing Program, a Commercial Leasing for Wind Power Development on the Outer Continental Shelf (OCS) Offshore California—Call for Information and Nominations published in the Federal Register on 19 October 2018, a BOEM Oregon Intergovernmental Renewable Energy Task Force meeting on 27 September 2019, and environmental studies (particularly an Archaeological and Biological Assessment of Submerged Landforms off the Pacific Coast).

II. Summarize and list all of the issues and recommendations.

Atlantic Region/Headquarters:

Stephen Simpson and Sabrina McCarthy from the Office of the Solicitor, Division of Indian Affairs presented to BOEM Staff and Other Interested Persons at four BOEM Office locations and at the National Congress of American Indians Mid-Year Conference in Fiscal Year 2019.

June 19, 2019 – Sterling, Virginia. Sabrina McCarthy presented the Department of Interior Policy on Consultation with Indian Tribes, EO 13175 signed by Bill Clinton on November 6, 2000, and the 2011 Department of Interior Policy. This was the first training in the series of outreach, Sabrina also presented an overview of Federal Indian Law and Departmental Policies regarding American Indian Tribes, Alaska Natives and Alaska Native Claims Settlement Act Corporations. Dr. Bill Brown, BOEM Chief Environmental Officer, and Office of Environmental Program Branch Chiefs also attended.

June 25, 2019 - National Congress of American Indians Mid-Year Conference, Reno, NV. Sabrina McCarthy and Stephen Simpson presented on Listening Sessions versus Tribal Consultations. BIA Tribal Consultations have transcripts on the Internet. Fawn Sharp, President of the Quinault Indian Nation, asked about the Joint Federal Team promised during the previous DOI Administration. The Quinault Indian Nation is one of the four tribal nations with treaty rights on the Outer Continental Shelf.

July 24, 2019 – Camarillo, California during the first Tribal Working Group Meeting. Sabrina McCarthy and Stephen Simpson presented Federal Indian Law, Department of Interior

Departmental Policies, Unfunded Mandate Act, FOIA requirements and protections during tribal consultations, working with tribes that are not federally-recognized, and non-consulting official staff/attorney participation during tribal consultations. Joan Barminski, Pacific Region Regional Director and Thomas Liu, Deputy Regional Director and most of the Region's supervisors were present during the Solicitor presentations. Jack Lorrigan and Monica Chacon, BSEE Tribal Liaisons and BOEM Regional Tribal Liaisons attended and participated.

September 4, 2019 - New Orleans, Louisiana. Sabrina McCarthy and Stephen Simpson presented to BOEM and BSEE staff as well as Michael Celata, Gulf of Mexico Regional Director who was engaged the entire training with scenarios and hypotheticals of tribal consultation. The Regional Director would like to build upon this training to ensure that the Regional staff is fully trained in working with tribal nations.

September 11, 2019 – Anchorage, Alaska. Stephen Simpson presented his Federal Indian Law presentation and Sabrina McCarthy's presentation. The Alaska Regional Training was scheduled with Larry Keown, author of Working in Indian Country. James Kendall, Alaska Regional Director was present. The Alaska Region is dynamic and unique, BSEE staff was present, and everyone enjoyed this robust training.

Alaska Region

BOEM-Anchorage Office accomplished significant progress with getting the Proposed Arctic Rule consultations completed prior to furlough on December 22. This allowed for the gathering and organizing of comments to provide forward to BOEM Headquarters for subsequent action.

January 28-February 1, 2019 – BOEM co-hosted the annual Alaska Marine Science Symposium in Anchorage. This event is one of the premier ocean sciences gatherings for the entire nation. More than 1,500 scientists interest people travel to it annually. Tribal members attended and took part. Many of the presenters include BOEM employees. It is the third of several large outreach efforts accomplished annually by the BOEM-Anchorage Office.

February 11-15, 2019 – annual Alaska Forum on The Environment, with significant sponsorship from BOEM, hosted more than 1,000 attendees from across Alaska and the United States, and several other countries including the Arctic Council Nations. Tribal representatives attended and took part.

June 17-19, 2019 – Diversity Change Agent Training at MIB in Washington, DC. Training was supported by DOI, BOEM and BSEE. This unique group was tasked with an opportunity to develop specific new language supporting certain minority groups. The ramifications for the DCA program being beneficial for use by Tribal Liaisons is a natural resource worth the investment of time and effort.

June 25-29, 2019 - National Congress of American Indians Mid-Year Conference, Reno, NV. In addition to the presentations by Sabrina McCarthy and Stephen Simpson on Listening Sessions versus Tribal Consultations, the opportunity for hosting a booth and connecting with attendees was beneficial. (see other pertinent comments above).

July 24-27, 2019 – First Tribal Working Group Meeting, Camarillo, CA. Sabrina McCarthy and Stephen Simpson presented Federal Indian Law, DOI Policies, Unfunded Mandate Act, FOIA requirements and protections during tribal consultations, dealing with tribes that are not federally-recognized. BOEM and BSEE Regional Tribal Liaisons attended and took part. (See additional details above).

July 29-30, 2019 – Alaska Whaling Captains Conference, Utqiagvik, AK. BOEM Regional Director Dr. Jim Kendall provided presentation with updates on a range of BOEM studies and activities at the specific request of the Captains. Approximately 250 Whaling Captains were in attendance. Selected BOEM staff were on hand to interact with the Captains informally throughout the two-days.

September 11-12, 2019 – Alaska Tribal Relations Training Seminar, Anchorage, AK. Regional Director Jim Kendall opened the seminar with discussion about the important of tribal relations, the value of TK/IK in our work, and welcomed everyone. Stephen Simpson presented his Federal Indian Law presentation and Sabrina McCarthy’s presentation. Larry Keown, a former BLM Superintendent and author of Working in Indian Country, provided the bulk of instruction. About two dozen BOEM and BSEE took part.

Gulf of Mexico Region

BOEM’s proposed rulemaking to revise financial security requirements for offshore oil and gas lease holders will necessitate a concurrent revision of BSEE’s decommissioning regulations. Accordingly, when consultations are reinitiated with the Southern Ute Indian Tribe, BOEM and BSEE plan to consult jointly. These consultations are anticipated to resume following publication of the Draft Proposed Rule (TBD).

Pacific Region

Input received from tribes via letter, consultation, and informational meetings was predominantly opposition to including Pacific OCS Areas in the 2019-2024 National OCS Oil and Gas Leasing Program. Concerns expressed included risk to natural and cultural resources from oil spills, adequate assessment of cultural resources, adequate cost-benefit analysis, the risk posed by earthquakes and other seismic activity in the Pacific, and meaningful and timely engagement with tribes. Recommendations were given regarding points of contact, notification/communication methods, and continued early and frequent communication. In response to one tribe’s request for a proposal from BOEM on how meaningful consultation would be conducted for the 2019-2024 National OCS Oil and Gas Leasing Program, the Pacific OCS Office provided a draft proposal aligned with the Department of Interior Policy on Consultation with Indian Tribes for review and collaborative iteration.

Input from tribes on BOEM planning activities for potential wind energy leasing offshore California has been varied. Some expressions of support for offshore wind energy development and some expressions of concern were received. Reasons for support include low-carbon energy sources, local economic development effects, and research opportunities. Reasons for concern include potential impacts to natural and cultural resources, and viewshed impacts to sacred sites.

Preliminary input from tribes on the resumption of discussions about potential wind energy leasing offshore Oregon (after a five-year hiatus) has been largely focused on process. Some tribes recommended continued early and frequent communication.

III. Summarize successes and accomplishments and include recommendations for improvements to the consultation process.

Gulf of Mexico Region -

The agency should strive to ensure that all staff and management who may be involved in Government to Government consultations will take some level of basic tribal consultation training prior to participating in consultations.

The initial consultation with the Southern Ute was less effective or informative than it might have been due to disagreement among BOEM decision makers as to how much information could be shared with the tribe and Red Willow Production Company during the consultation call. Going forward, BOEM management should reach consensus prior to consultation meetings about what information can be shared and who will be the lead agency representative.

IV. Outreach Efforts

Alaska Tribes and ANCSA Outreach

- Alaska Federation of Natives Convention 4200 attendees
- Bureau of Indian Affairs Providers Conference 2500 attendees
- Alaska Eskimo Whaling Commission Meeting 350 attendees
- Alaska Marine Science Symposium 1500 attendees
- Alaska Forum on the Environment 1000 attendees
- National Congress of American Indians Mid-Year Conference 2500 attendees
- Alaska Whaling Captains Meeting in Utqiagvik 250 attendees

Regional and Community Leaders Meetings were held with:

- Mayor, Northwest Arctic Borough meeting in Kotzebue with key staff
- Mayor, North Slope Borough meeting in Utqiagvik with key staff
- Mayor, City of Kaktovik with selected Council members

Atlantic Region

On November 7, 2018, BOEM held a second Section 106 consultation meeting on the island of Nantucket, to discuss further on view shed assessments, visual simulations, and assessing effects to historic properties for the Vineyard Wind project, with an emphasis on effects to the Nantucket Landmark District. This consultation included tribal members from the Aquinnah and Mashpee Wampanoag nations.

In response to the comments received, BOEM held a subsequent Section 106 consultation meeting on April 2, 2019, in Hyannis, Massachusetts with consulting parties, including federally

recognized tribes to discuss options for resolving adverse effects to two historic properties. The goal was to discuss the impacts to the Nantucket NHL and the Gay Head Lighthouse. Another goal was to discuss Project impacts to submerged paleo landforms identified within the marine APE that BOEM determined – in consultation with consulting parties, including federally recognized tribes – to be contributing elements to the Nantucket Sound Traditional Cultural Property (TCP).

On May 8, 2019, Vineyard Wind and BOEM held a Section 106 webinar with the consulting Federally-recognized tribes. During the May 8 webinar, Vineyard Wind and their consultants provided a detailed review of the paleo landforms identified during geotechnical and geophysical surveys of the marine APE and discussed those that could and could not be avoided. After the Vineyard Wind presentation, BOEM presented a proposal to mitigate adverse effects to submerged paleo landforms by using geotechnical cores collected by Vineyard Wind to develop a paleo environmental reconstruction of Nantucket Sound’s Late Pleistocene/Early Holocene (ca. 20,000-6,000 years ago) landscape. BOEM will continue consultation with federally recognized Tribes as this project progresses. A similar consultation process will be followed for all of the offshore wind projects on the outer continental shelf under BOEM’s jurisdiction for both NEPA and NHPA compliance.

Tribes as Cooperating Agencies

BOEM also used the NEPA scoping process to invite other federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of the Vineyard Wind Draft EIS. According to Council on Environmental Quality guidelines, qualified agencies and governments are those with “jurisdiction by law or special expertise” (CEQ 1981). BOEM asked potential cooperating agencies to consider their authority and capacity to assume the responsibilities of a cooperating agency, and to be aware that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process. The Narragansett Indian Tribe agreed to be a cooperating agency for the Vineyard Wind EIS and will continue to be a cooperating agency as the project EIS moves forward in the future.

Gulf of Mexico Region

Cultural Resources Law Conference – Consulting with Tribes on Energy Projects (11-12 October 2018):

The Gulf of Mexico Tribal Liaisons, Doug Jones and Victoria Phaneuf participated in the conference for training and networking with tribal participants.

Federally recognized tribes identified with known or potential interest in BOEM activities

Alabama-Coushatta Tribe of Texas
Caddo Nation of Oklahoma
Chitimacha Tribe of Louisiana
Coushatta Tribe of Louisiana
Jena Band of Choctaws

Miccosukee Tribe of Indians of Florida
Mississippi Band of Choctaw Indians
Muscogee (Creek) Nation
Poarch Band of Creek Indians
Seminole Nation of Oklahoma
Seminole Tribe of Florida
Choctaw Nation of Oklahoma
Tunica-Biloxi Indian Tribe of Louisiana

Pacific Region

West Coast Tribal Caucus Engagement:

By request from the Tribal Caucus members of the West Coast Ocean Alliance, the Pacific OCS Office provides updates and answers questions on BOEM activities at the beginning of each Tribal Caucus call, which occur roughly bi-monthly. Also, by request from the Tribal Caucus to inform its development of a West Coast tribal engagement and consultation guidance document, the Pacific Regional Tribal Liaison Officer provided information on formal agreements with tribes, BOEM's use of traditional knowledge, and BOEM's implementation of the Tribal Cultural Landscapes framework.

Cultural Resources Law Conference – Consulting with Tribes on Energy Projects (11-12 October 2018):

The Pacific Regional Tribal Liaison Officer participated in the conference for training and networking with tribal participants.

EPA Region 9 Regional Tribal Operations Committee Spring 2019 Meeting (22-23 May 2019):

Pacific Regional Tribal Liaison Officer participated in the meeting to provide information on BOEM activities during a breakout session and engage with tribal participants.

Open House Event for submerged landforms study core splitting (25 July 2019):

The Pacific Regional Historic Preservation Officer invited coastal tribes in Oregon and southern California to participate in the study open house.

BOEM Oregon Intergovernmental Renewable Energy Task Force Meeting (27 September 2019):

The Pacific OCS Office engaged in an outreach campaign in advance of the meeting to share information about its renewable energy program and invited all tribes interested in or potentially affected by offshore wind energy leasing in Oregon to join the Task Force (4 tribes are already members of the Task Force) or attend the Task Force meeting as non-Task Force members.

Federally recognized tribes identified with known or potential interest in BOEM activities

California

Barona Band of Mission Indians
Bear River Band of the Rohnerville Rancheria
Big Lagoon Rancheria
Big Pine Paiute Tribe of the Owens Valley

Big Valley Band of Pomo Indians
Blue Lake Rancheria
Cahto Tribe of the Laytonville Rancheria
Cahuilla Band of Indians
Campo Kumeyaay Nation
Cher-Ae Heights Indian Community of the Trinidad Rancheria
Cloverdale Rancheria of Pomo Indians
Colusa Indian Community
Cortina Rancheria Kletsel Dehe Band of Wintun Indians
Coyote Valley Band of Pomo Indians
Dry Creek Rancheria Band of Pomo Indians
Elem Indian Colony of Pomo Indians
Elk Valley Rancheria
Ewiiapaayp Band of Kumeyaay Indians
Federated Indians of Graton Rancheria
Fort Bidwell Indian Community
Grindstone Indian Rancheria of Wintun-Wailaki Indians
Guidiville Band of Pomo Indians
Habematolel Pomo of Upper Lake
Hoopa Valley Tribe
Hopland Band of Pomo Indians
Iipay Nation of Santa Ysabel
Inaja-Cosmit Band of Indians
Ione Band of Miwok Indians
Jamul Indian Village
Karuk Tribe
Kashia Band of Pomo Indians of the Stewarts Point Rancheria
Koi Nation of Northern California
La Jolla Band of Luiseño Indians
La Posta Band of Diegueño Mission Indians
Los Coyotes Band of Cahuilla & Cupeño Indians
Lytton Rancheria
Manchester Band of Pomo Indians
Manzanita Band of the Kumeyaay Nation
Middletown Rancheria of Pomo Indians
Morongo Band of Mission Indians
North Fork Rancheria of Mono Indians
Pala Band of Mission Indians
Pauma Band of Luiseño Indians
Pechanga Band of Luiseño Indians
Pinoleville Pomo Nation
Pit River Tribe
Potter Valley Tribe
Ramona Band of Cahuilla
Redding Rancheria
Redwood Valley Little River Band of Pomo Indians

Resighini Rancheria
Rincon Band of Luiseño Indians
Robinson Rancheria of Pomo Indians
Round Valley Indian Tribes
San Pasqual Band of Mission Indians
Santa Rosa Band of Cahuilla Indians
Santa Ynez Band of Chumash Indians
Scotts Valley Band of Pomo Indians
Sherwood Valley Band of Pomo Indians
Soboba Band of Luiseño Indians
Sycuan Band of the Kumeyaay Nation
Tolowa Dee-ni' Nation
United Auburn Indian Community of the Auburn Rancheria
Viejas Band of Kumeyaay Indians
Wilton Rancheria
Wiyot Tribe
Yocha Dehe Wintun Nation
Yurok Tribe

Oregon

Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
Confederated Tribes of Grand Ronde
Confederated Tribes of Siletz Indians
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs
Coquille Indian Tribe
Cow Creek Band of Umpqua Tribe of Indians

Washington

Confederated Bands and Tribes of the Yakama Nation
Hoh Indian Tribe
Makah Tribe
Port Gamble S'Klallam Tribe
Quileute Tribe
Quinault Indian Nation
Shoalwater Bay Tribe

Idaho

Nez Perce Tribe

Arizona

Colorado River Indian Tribes