



LEECH LAKE BAND OF OJIBWE

Tribal Historic Preservation Office

*Amy Burnette, Tribal Historic Preservation Officer
Sheila Gotchie, Office Manager*

Date: November 30, 2016

VIA INTERNET

To: Office of the Assistant Secretary – Indian Affairs
Ms. Elizabeth K. Appel, Director
Office of Regulatory Affairs & Collaborative Action
1849C Street, NW, MS 3071,
Washington, DC 20240
Elizabeth.appel@bia.gov

Re: Leech Lake Band of Ojibwe Tribal Historic Preservation Officer Response to Formal Tribal Consultation on Federal Infrastructure Decisions

Dear Ms. Appel, and representative officials of the U.S. Departments of the Interior, Justice, the Army and other participating federal agencies present during the hearings;

The Leech Lake Band of Ojibwe was asked by the United States Departments of the Interior, Justice, and the Army to respond to two questions regarding Federal infrastructure decisions.

- 1) How can Federal agencies better ensure meaningful tribal input into infrastructure-related reviews and decisions, to protect tribal lands, resources, and treaty rights within the existing statutory framework?
- 2) Should the Federal agencies propose new legislation altering the statutory framework to promote these goals?

Some key items come to mind as I consider these points and after having reviewed the hearing proceeding transcripts and attended the hearing at Prior Lake, Minnesota.

- 1) An immediate end to Appendix C which hinders the progress of the National Historic Preservation Act and the authority of the Advisory Council on Historic Properties and nullifies the consultation processes of Section 106.
 - a. Appendix C was developed without legal authority and has never been approved by the ACHP.
 - b. Appendix C allows for the usurpation of the proceeds of consultation because tribal input is not required.

Leech Lake Tribal Historic Preservation Office – Established in 1996

An Office Within the Division of Resources Management
190 Sailstar Drive NW, Cass Lake, Minnesota 56633
(218) 335-2940 * FAX (218) 335-2974

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- c. Appendix C does not define consultation.
 - d. Appendix C limits the Area of Potential Effects to the permit area and does not include geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties as is defined by the NHPA.
- 2) Implement policies preventing trespass upon or hindrance of treaty and fiduciary obligations between the United States and federally recognized tribes by states.
- a. Project undertakings hindering or preventing use of traditional cultural properties or the exercise of reserved rights within treaty territories need to be addressed both within exterior boundaries as well as the wider territories.
 - b. Appropriations need to meet and ensure the ability of tribes to consult and to preserve historic and traditional cultural properties.
- 3) Consent of the tribes is needed before proceeding with a proposed project undertaking.
- 4) Continued adherence to the development and institutionalization of policies promoting the consideration of ecosystem services in planning, investment, and regulatory contexts which will maintain ecosystem and community resilience, and the sustainable use of natural resources especially those requirements within the Clean Water Act.
- a. Rural areas have resources that are utilized to service the large condensed populations of metropolitan areas.
 - b. The rural areas that service these condensed populations include interrelated systems, minerals, plant and faunal populations that are sacred to Native American peoples and fulfill their needs for continued existence.
 - c. Large condensed populations require resources that the areas they are located in are not able to provide and are drawn from the wider geography.
 - d. The safety and continued existence of these wider systems is required for the continued sustainability of large, condensed populations.
- 5) Ensure the processes of consultation are not hindered;
- a. Consultation requires notification of the parties.
 - b. It requires acknowledgement by the parties.
 - c. It requires full disclosure of the proposed project undertaking.

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- d. It requires full disclosure to all parties of any changes that have occurred.
 - e. It requires a record of acknowledgement by the parties when changes have occurred to the proposed project undertaking.
 - f. It requires discussion and approval or further work until all parties are satisfied their needs have been met.
 - g. If any of these steps have not been met, they need to be addressed and met.
- 6) Enfold the processes defined within the Articles of the United Nations Declaration on Indigenous Peoples and ensure the moral and political aspirations by the United States to improve laws and policies within the U.S. Constitution and to continue to protect and honor all citizens within fiduciary responsibilities of the Republic.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rich Robinson", is written over a light gray rectangular background.

Tribal Historic Preservation Officer

CC: Rich Robinson, Leech Lake Band of Ojibwe Director of Resource Management



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