



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 26 2022

Dear Tribal Leader:

On behalf of Secretary Haaland, I am pleased to announce the rescission of the so-called Morton Moratorium, a 1975 memorandum from Secretary Morton to the Commissioner of Indian Affairs that directed the withdrawal of delegated authority to lower-level Bureau of Indian Affairs' managers to approve tribal water use codes and ordinances pending further Departmental action. In the nearly 50 years since this directive occurred, no regulation has issued, no court decision has truly addressed or clarified issues related to tribal water codes, and the directive ultimately serves no useful purpose and creates confusion for Indian tribes and others. Rescinding the Morton Moratorium removes this cloud, respects tribal sovereignty, and promotes tribal self-determination.

Indian Affairs invites you to consult on two general topics:

- (1) the appropriate delegation of approval authority as between Regions and Central Office following the rescission; and
- (2) guidance on standards for approval of tribal water codes.

We will hold a single virtual consultation session on these topics as follows:

| Date | Time | Connectivity |
|------------------|--------------------|--|
| Thursday, May 26 | 1 P.M. – 4 P.M. ET | Register in advance for this meeting: https://www.zoomgov.com/meeting/register/vJltcOuvqjorE7IbXAYizUvzA69o3T0dnAY |

The Department of the Interior (Department) is excited to address this issue. We anticipate this rescission will not substantially increase the number of tribal requests for water code approvals beyond those required consistent with Congressionally enacted Indian water settlements. Congressionally enacted Indian water settlements generally include tribal water code provisions that call for Secretarial approval of tribal water codes and otherwise obviate potential conflicts. Otherwise, most Indian tribes have constitutions that do not require Secretarial approval of tribal water codes. Those Indian tribes that still have such provisions also retain the ability to amend their constitutions to remove Secretarial approval requirement consistent with principles of tribal sovereignty and self-determination.

This rescission does not otherwise implicate tribal water codes that the Department currently has pending for review and approval, or those that the Department may receive in the future, consistent with Congressionally enacted Indian water rights settlements. The Department will continue to review and approve those codes consistent with current practice and the relevant settlement.

Any approval of tribal water codes will be issued consistent with applicable court decisions and laws (including any applicable Indian water settlement) and contain provisions for the protection of Indian allottees.

We also welcome written input to consultation@bia.gov by Friday, August 5, 2022. If you have any questions regarding this effort, please feel free to contact Tracy Goodluck, Senior Advisor to the Assistant Secretary - Indian Affairs at tracy_goodluck@ios.doi.gov or (202) 208-7163.

We look forward to speaking with you and receiving your input on the Department's implementing this rescission.

Sincerely,



Wizipan Garriott
Principal Deputy Assistant Secretary – Indian Affairs
Exercising by delegation the authority of the
Assistant Secretary – Indian Affairs

