

# The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office  
(406) 395-4282 or 4321 - Business Committee

31 Agency Square  
Box Elder, Montana 59521

November 28, 2016

Office of the Assistant Secretary – Indian Affairs  
Office of Regulatory Affairs & Collaborative Action  
1849 C Street, NW, MS 3642  
Washington, DC 20240

To Whom It May Concern:

This letter is in regards to the invitation by the Departments of the Interior, Justice and Army Corps of Engineers and other federal agencies to consult on Federal decision making on infrastructure projects that affect tribal lands, resources, and treaty rights to ensure those decisions are fully consistent with the federal government obligations to tribal nations.

The Chippewa Cree Tribe has addressed the categories discussed in the invitation by the Federal agencies.

## **BACKGROUND-**

1. The Chippewa Cree Tribe is a federally recognized Indian Tribe [Federal Register / Vol. 81 No. 86 Pages 26826; Indian Entities Recognize and Eligible to Receive Services from a negotiated compact with the Bureau of Indian Affairs] located on the Rocky Boys Indian Reservation, Montana. The Chippewa Cree Tribe is organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, as amended by the Act of June 15, 1935.
  - a. The Chippewa Cree Business Committee the governing body of the Tribe created the Chippewa Cree Cultural Resources Preservation Department (CCCRPD). CCCRPD was created to preserved cultural and historic resources that are situated within the aboriginal homelands of the two tribes. Also, they protect the cultural, historical, ceremonial and medicinal plants within those areas. CCCRPD makes a concerted effort to work through tribal and National Registered Historic Preservation designations, tribal programs, and partnerships with federal and state agencies.
  - b. The CCCRPD maintains the Tribal Historic Preservation Office (THPO) that currently engages in federal consultation by developing and utilizing an online consultation management database process. This

process has been highly effective working with telecommunications projects through the Federal Communications Commission's Tower Construction Notification System (TCNS). Since 2014, the online service has allowed the CCCRPD to respond to over 6,000 consultation requests in a timely manner, as well as transparency and accountability for tribal monitoring work in the Section 106 consultation process.

2. Recently, the Chippewa Cree Business Committee authorized and approved iResponse, LLC (iResponse), a tribally owned company that has created an online software platform, providing industry and governmental consulting, Section 106 and other online processes and monitoring services for tribal consultation. iResponse is uniquely qualified to work with the affected tribes, industry operators, and the federal government to create mutually beneficial business relationships. Although iResponse isn't the "solution", it can be one of the "solutions" for improved consultations.

#### **COMMENTS-**

##### **1. Promoting meaningful government-to-government engagement within the existing framework.**

- a. Communication in the form of letter and meeting at NCAI is not meaningful consultation
  - i. Tribal consultations with Tribal leadership on Tribal Lands on potential activity affecting the Tribe
  - ii. 106 Consultations needed to involve Tribal Historic Preservation Officers (THPO) on historical properties with federal undertakings
  - iii. Costs of consultations and who is stuck paying the costs, if done on tribal lands that would cut cost for Tribes
  - iv. Timing- before projects are even considered consultation should happen, like Dakota Access Pipeline (DAPL)
- b. Federal agencies need to understand each Tribe's governance structure is different and unique.
- c. Consultation should be more than one hearing with dialogue and feedback from the Tribe and Federal Agency.
  - i. The Tribes comments, concerns and questions need to be resolved and answered to qualify as a consultation.
  - ii. Seeking Tribal informed consent
- d. Consultations should be consistent amongst federal agencies, with uniform procedures established with the Office of Management and Budget (OMB).
- e. Government Accountability Office (GAO) conduct an assessment of federal agencies' tribal consultation guidelines and report findings to Congress.
- f. The National Science and Technology Council (NSTC) coordinate a national technology policy for technology investments for Tribes and

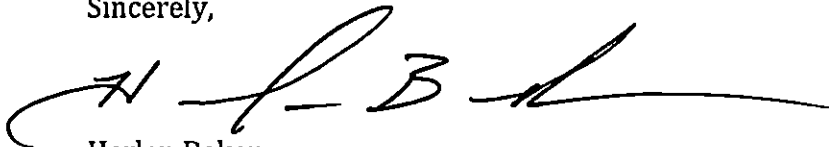
develop innovative consultation strategies to coordinate across the federal government.

2. **Identifying any necessary change to the existing framework.**
  - a. Tribes need to create the model for consultation- each tribe has its own version for consultation
  - b. Interpretation from Tribal ancestral homelands, not taken from Tribal Perspective
  - c. Notification is not a proxy for consultation.
  - d. Consultations should not be after the fact of a decision being made and tribal comment or feedback needs to be a part of the process.
  - e. Ancestral and cultural sites should be given just as much protection as western sites that are protected.
  - f. UN Declaration of Rights on Indigenous Peoples- requires prior approval of any project affecting their land.
  - g. On-line software technology platform for all federal agencies to utilize with Tribes in consultations.

**CLOSING-**

The Chippewa Cree Tribe of Rocky Boys Indian Reservation of Montana is committed to protecting our homelands strengthening tribal sovereignty for the future generations of our Tribe. It is important to our Tribe to have the vision to work collaboratively with federal agencies to preserve and protect our way of life. The Chippewa Cree Tribe understands the federal government has to continue to recognize and honor tribal sovereignty and adhere to the federal trust responsibility in dealing with Tribal nations for everyone to succeed. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Baker', with a long horizontal flourish extending to the right.

Harlan Baker  
Chippewa Cree Tribe Chairman