



Order No. 3403

Subject: Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters

Section 1. Purpose. This Secretary's Order is issued by the Secretary of Agriculture and the Secretary of the Interior (Secretaries) to ensure that the Department of Agriculture and the Department of the Interior (Departments) and their component Bureaus and Offices are managing Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes including the Native Hawaiian Community; that such management is consistent with the nation-to-nation relationship between the United States and federally recognized Indian Tribes; and, that such management fulfills the United States' unique trust obligation to federally recognized Indian Tribes and their citizens.

The Departments are responsible for the management of millions of acres of Federal lands and waters that were previously owned and managed by Indian Tribes. Those lands and waters contain cultural and natural resources of significance and value to Indian Tribes and their citizens, including sacred religious sites, burial sites, wildlife, and sources of indigenous foods and medicines. In addition, many of those lands and waters lie within areas where Indian Tribes have reserved the right to hunt, fish, gather, and pray pursuant to ratified treaties and agreements with the United States.

In managing Federal lands and waters, the Departments are charged with the highest trust responsibility to protect Tribal interests and further the nation-to-nation relationship with Tribes. The Departments recognize and affirm that the United States' trust and treaty obligations are an integral part of each Department's responsibilities in managing Federal lands. Tribal consultation and collaboration must be implemented as components of, or in addition to, Federal land management priorities and direction for recreation, range, timber, energy production, and other uses, and conservation of wilderness, refuges, watersheds, wildlife habitat, and other values. Further, in honoring these obligations, the Departments will benefit by incorporating Tribal expertise and Indigenous knowledge into Federal land and resources management.

This Order establishes how the Departments will fulfill their obligations to Federally recognized Indian Tribes, by directing the Bureaus and Agencies within each Department to undertake the following, consistent with the intent of this Order and applicable law:

- a. Ensure that all decisions by the Departments relating to Federal stewardship of Federal lands, waters, and wildlife under their jurisdiction include consideration of how to safeguard the interests of any Indian Tribes such decisions may affect;
- b. Make agreements with Indian Tribes to collaborate in the co-stewardship of Federal lands and waters under the Departments' jurisdiction, including for wildlife and its habitat;
- c. Identify and support Tribal opportunities to consolidate Tribal homelands and empower Tribal stewardship of those resources;
- d. Complete a preliminary legal review of current land, water, and wildlife treaty responsibilities and authorities that can support co-stewardship and Tribal stewardship within 180 days and finalize the legal review within one year of the date of this Order; and
- e. Issue a report within one year of this Order, and each year thereafter, on actions taken to fulfill the purpose of this Order.

Section 2. Authorities. The Departments' authorities to fulfill the terms of this Order stem from numerous ratified treaties and agreements between the United States and federally recognized Indian Tribes, along with the trust obligation owed by the United States to federally recognized Indian Tribes and their citizens, as well as applicable statutes, Executive Orders, and relevant caselaw.

The President has also issued several Executive Orders directing agencies to coordinate with federally recognized Indian Tribes for matters covered by this Order, including:

- a. Executive Order 13007 (Indian Sacred Sites) – Directing each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.
- b. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) – Directing Federal agencies to engage in meaningful government-to-government consultation with Indian Tribes, provide regulatory and statutory waivers to Indian Tribes to increase flexible policy approaches at the Tribal level, and use consensual mechanisms

for developing regulations on issues relating to Tribal self-government, Tribal trust resources, or Indian Tribal treaty and other rights.

Section 3. Principles of Implementation. In fulfilling the requirements of this Order, including the development of agreements with federally recognized Indian Tribes for stewardship of lands and waters, the Departments affirm the following principles:

- a. Federally recognized Indian Tribes are sovereign governments with a government-to-government relationship with the United States. The Native Hawaiian Community has a government-to-sovereign relationship and uses Native Hawaiian organizations as its informal representatives. Based upon these relationships, Indian Tribes and Native Hawaiian organizations can engage directly with the Departments to address matters of mutual interest in the management of Federal lands.
- b. The Departments will collaborate with Indian Tribes to ensure that Tribal governments play an integral role in decision making related to the management of Federal lands and waters through consultation, capacity building, and other means consistent with applicable authority.
- c. The Departments will engage affected Indian Tribes in meaningful consultation at the earliest phases of planning and decision-making relating to the management of Federal lands to ensure that Tribes can shape the direction of management. This will include agencies giving due consideration to Tribal recommendations on public lands management.
- d. For landscape- or watershed-scale restoration and conservation planning, the Departments will, to the maximum extent practicable, incorporate Tribal forest land, agriculture and/or range land management plans into Federal land management planning efforts.
- e. The Departments will collaborate with Indian Tribes to educate affected communities regarding the role Tribal governments play in the stewardship of Federal public lands, waters, and wildlife, and will work to develop appropriate institutional structures to implement agreements related to co-stewardship.
- f. The Departments will consider Tribal expertise and/or Indigenous knowledge as part of Federal decision making relating to Federal lands, particularly concerning management of resources subject to reserved Tribal treaty rights and subsistence uses.
- g. Where the Departments have entered into collaborative agreements with Indian Tribes, they will incorporate dispute resolution procedures appropriate to the subject of the agreement, as authorized.

- h. Where authorizations include non-federally recognized Tribes, they will be presumed directly incorporated into this Order.

Section 4. Federal stewardship of Federal lands and waters, including wildlife and its habitat. In making management decisions for Federal lands and waters, or for wildlife and their habitat that impacts the treaty or religious rights of Indian Tribes, the Departments will incorporate the Principles of Implementation established in Section 3 of this Order.

Section 5. Co-stewardship of Federal lands and waters, including wildlife and its habitat. The Departments will endeavor to engage in co-stewardship where Federal lands or waters, including wildlife and its habitat, are located within or adjacent to a federally recognized Indian Tribe's reservation, where federally recognized Indian Tribes have subsistence or other rights or interests in non-adjacent Federal lands or waters, or where requested by a federally recognized Indian Tribe.

The Departments will identify affected Indian Tribes through use of, at a minimum, the Tribal Treaty Database (TTD), the Bureau of Indian Affairs (BIA) Tribal Land Locator Tool, the Forest Service's Tribal Connections Map Viewer, and the Office of Native Hawaiian Relations Native Hawaiian Organization List and Homestead and Beneficiary List. The Departments will:

- a. Promote the use of collaborative agreements and/or provisions in land management plans consistent with the Department's obligations under existing law;
- b. Develop and implement, whenever possible, employee performance review standards that evaluate progress toward meeting the objectives and goals of this Order, including success toward developing new collaborative stewardship agreements and enhancing existing ones;
- c. Coordinate and cooperate on co-stewardship efforts and initiatives between the Departments;
- d. Use agreements as a tool to foster cooperation on protection of treaty, subsistence, and religious rights consistent with consensual policy-making referenced in Executive Order 13175; and
- e. Evaluate and update Departmental Manuals, handbooks, or other guidance documents for consistency with this Order.

Where co-stewardship is not permitted by law, the Departments will give consideration and deference to Tribal proposals, recommendations, and knowledge that affect management decisions on such lands wherever possible.

Section 6. Tribal stewardship of lands, waters, including wildlife and its habitat. The Departments recognize that it is the policy of the United States to restore Tribal homelands to Tribal ownership and to promote Tribal stewardship and Tribal self-government. The Departments will support consolidation of tribal landholdings within reservations, including Tribal acquisition of Federal lands and private inholdings, in furtherance of this Order and consistent with applicable law.

The Departments will facilitate Tribal requests to have lands placed into trust status, including for conservation, protection of sacred sites, cultural or religious use, or exercise of subsistence or treaty reserved rights, in furtherance of this Order and consistent with applicable law.

Section 7. Expiration Date. This Order is effective immediately. It will remain in effect until its provisions are implemented and completed, or until it is amended, superseded, or revoked.



Deb Haaland
Secretary of the Interior



Thomas J. Vilsack
Secretary of Agriculture

Date: **NOV 15 2021**