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ATTACHMENT 1

Douglas Indian Association
Tribal Government

Box 240541 Douglas, Alaska 99824

December 29, 1998

stian
USFS, Sitka

Dear Steve:

Thank you for the Meeting Notes on the Water Breakout Session. I appreciated being able to participate in that discussion, and learned a lot about the approach being taken in SE Alaska by the Forest Service and several other partnering agencies. On the whole, the notes reflected what I took down, although I had some of the items placed with a different emphasis.

I would like to keep up with the issue of Water Use Permits, and would appreciate knowing how the refined workload assessment (between Dave Blanchet & John Dunker) develops. Both the instream flow and Native Allotments parts of that task are of concern to me.

In the issue of NRIS Water Quality Tasks, I would like to follow how discussions proceed to identify water quality data needs. I assume that Margaret Beilharz & Jenny Fryxell can keep me informed on how this is going.

In the Watershed Assessments issue, I am very curious as to how an interagency effort can be developed to do Unified Watershed Assessments. We had a conference call last week with EPA and NRCS discussing this with nine of the Alaska Tribes, and EPA told us to expect some new Guidance on how to do UWAs early in January. You may know that there is an extended deadline to allow Indian Tribes to submit their own UWAs by the beginning of March, and that NRCS and EPA have determined that to include the Alaska Tribes. The question of Indian Country apparently is set aside in this activity, although I admit to being somewhat confused as to the details. One remark was made during the call that caught my attention—that there may be a new role for the Department of Interior in Alaska to oversee how this process of watershed assessment develops. If you have any information on this, I would appreciate knowing how to get more information....

The Douglas Indian Association is very interested in doing some kind of watershed assessment in the Traditional Territory of the Taku Kwaan. Since there is limited time and apparently no new funding to bring to the task, this is likely to be more of a prioritized effort than one of comprehensive application. I would guess that sounds familiar.

I expect to know more about this by the middle of January, after getting more information from NRCS and EPA, and can get back to you. This may be an opportunity to see how UWAs can be done with some interagency participation. I doubt that we will have a blue ribbon effort, but hope that we can at least list the Taku River in some fashion, and perhaps one or two more streams. We have been encouraged to proceed by EPA as 'Works in Progress' rather than as perfectionists about our submissions. Let me know if you have interest in this....

Doug Dobyns

Phone: (907) 364-2916 1112 Third Street Fax (907) 364-2917

APPENDIX I

Federally Recognized Tribal Governments
Using the Tongass and Chugach National Forests

TONGASS NATIONAL FOREST:

Ketchikan Area:

Klawock Cooperative Association
Craig Community Association
Hydaburg Cooperative Association
Organized Village of Kasaan
Ketchikan Indian Corporation
Metlakatla Indian Community, Annette Island Reserve
Organized Village of Saxman

Stikine Area:

Organized Village of Kake
Petersburg Indian Association
Wrangell Cooperative Association

Chatham Area:

Angoon Community Association
Chilkoot Indian Village (Haines)
Douglas Indian Association
Hoonah Indian Association
Chilkat Indian Village (Klukwan)
Sitka Tribe of Alaska
Skagway Village
Yakutat Tlingit Tribe

CHUGACH NATIONAL FOREST

Native Village of Chanega (Chenega)
Native Village of Eyak (Cordova)
Kenaitze Indian Tribe
Native Village of Tatitlek

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Douglas Indian Association
Tribal Government

Box 240541 Douglas, Alaska 99824

July 9, 1999

Sylvia Baca, Assistant Secretary
Lands & Minerals Management
US Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Ms. Baca:

The Douglas Indian Association is a federally recognized Indian Tribe, organized pursuant to the Indian reorganization Act of June 18, 1934, amended by the Alaska Act of May 1, 1936. The traditional territory of the people represented by the IRA Council has been documented in the Goldschmidt and Haas Report of 1946. Most of the Land in this traditional territory is presently managed by the US Forest Service, as part of the Tongass National Forest.

The Tribe has an Environmental Protection Program, funded under an IGAP Grant from EPA, and has initiated a Watershed Program as a part of this work. There is a joint water quality testing project being conducted under a Quality Assurance Project Plan (QAPP) that is jointly adopted by the Tribe, USGS, and EPA. In addition to funding from the partners in the QAPP, the Alaska Department of Environmental Conservation has granted funds to ensure that this project will continue for the projected five years of sampling on the Taku River, near Juneau.

We appreciate the opportunity to comment on the draft Unified Federal Policy for Watershed Management on Federal Lands, and would like you to know that the Tribe is generally supportive of this policy. We especially support the language for enhanced collaboration with Tribes, and coordination among Federal agencies, Tribes, States, and interested stakeholders. We would like to take advantage of the training opportunities to work within a watershed approach, and would like to begin to share our traditional ecological knowledge to assist federal land managers in moving toward a true ecosystem approach.

Please find our comments on the draft policy attached to this letter.

Sincerely,

Frank Miyasato

Frank Miyasato
President

Phone: (907) 364-2916 1112 Third Street Fax (907) 364-2917

Douglas Indian Association's Comments on the Proposed Unified Federal Policy for a Watershed Approach to Federal Land & Resource Management — Working Draft of June 14, 1999

Background: The Douglas Indian Association has been interested in the Clean Water Action Plan for this past year, and attended the briefing held in Seattle on July 9th, 1998, when several agencies presented their approaches to the CWAP. There was a report from this meeting that was shared with the Central Council of Tlingit & Haida Indian Tribes of Alaska, as an effort to provide information to Tribes in Southeast Alaska.

When the State of Alaska prepared their Unified Watershed Assessment the Douglas Indian Association made comments on the draft, and submitted two watersheds as Category I recommendations. The Tribe also acted within the Mendenhall Valley Watershed Partnership, to help provide comments to the State of Alaska. The Mendenhall Valley was selected as one of the top Alaska Priority Watersheds.

In December, the U.S. Forest Service held an Ecosystem Information Integration Workshop in Juneau, Alaska. The Douglas Indian Association attended this workshop and participated in the Water Breakout Sessions. The Tribe also spoke to the Plenary of the Workshop, and presented information on the Watershed Program that has begun the joint water-quality testing project on the Taku River (with USGS and EPA). When the meeting notes were circulated for the breakout session, the Tribe provided comments to the Water Team Leader (at the USFS Office in Sitka, Alaska). A copy of these comments, dated December 29th, is attached.

In January and February, the Douglas Indian Association met with several agencies led by the NRCS to produce a Unified Watershed Assessment on the Taku River. This was submitted on March 1st to EPA to be included in the classification of watersheds for the Clean Water Action Plan. The Tribe has subsequently requested to participate in the UWA Workshop that is scheduled to be held in Anchorage, Alaska, and will work on a Restoration Action Strategy for the Taku River. There are other watersheds within the traditional territory that the Tribe would also like to produce UWAs for.

In May, the U.S. Forest Service held a consultation meeting with Tribes in Hoonah, Alaska. There were several topics covered with cross-cutting implications for the Unified Federal Policy. Two topics warranting particular mention are the draft policy on Special Forest Products for Alaska, and the Regional Subsistence Advisory Board. There is also a working group to define consultation with the Forest Service, and one of the Douglas Indian Association Council is participating in that group. We will refer to this consultation meeting as the "Common Ground" Conference, and would like to thank the Hoonah Indian Association for hosting this event.

Follow-up meetings from the Common Ground are scheduled for September 8th & 9th to consider comments to the draft Special Forest Products Policy, and September 13th to further define consultation. On October 1st subsistence fisheries management authority in navigable waters will be transferred from Alaska, involving many watershed resources.

Comments:

1) Definitions –

The Tribe would like to emphasize that a "science-based approach to watershed assessment" should be broadened to include Traditional Ecological Knowledge (TEK) where this information is appropriate. The inclusion of TEK is an area where consultation with Tribes can begin to function to enhance understanding between the federal managers and Tribal members.

The use of "adaptive management" is encouraged within a science-based process, and we would like to see the use of this tool made more specific in terms of recording decisions and the assumptions behind these decisions. When applied to the fisheries components of watershed resources, the statistical rationales behind the assumptions should be recorded as well.

2) Introduction –

The proposed policy can mesh better with the Tribe's water quality and watershed programs by integrating Tribal data and objectives into the federal land and resources management activities. The subsistence resource base is probably the best place to start, in consultation processes that acknowledge the importance of these resources to the Tribe.

One impact the proposed policy will have to the Tribe's watershed programs will be to define the priority watersheds for Southeastern Alaska, determining funding for several years of restoration and protection work. It is vital that the Tribe's voice be heard in this prioritization, since the watersheds being considered hold most of the subsistence and other valued resources upon which the Tribe's members depend.

In taking the watershed approach to the watersheds of Southeastern Alaska, the Tribe should be included when assessing functions and conditions. Because of the unique values (i.e. cultural, religious & dietary) of these watersheds to the Tribe, the federal managers need to be informed of how these values can be assessed.

Designing monitoring plans needs to take the unique functions and values of these watersheds into account. Tribes may have suggestions for the timing, location, and monitoring plan elements that would not be readily known to federal managers.

A process to expand collaboration that includes Tribes will need to be facilitated by an objective professional rather than controlled by the agency that intends to conduct the collaboration. The facilitator should be chosen in a joint process. It is further recommended that a facilitated interagency coordination group include the effected Tribe(s) when considering a watershed with a strong Tribal interest.

Toward the end of creating "living laboratories" for adaptive management and water quality, the perspective of the Tribes needs to be brought to a table that has objective and equal representation.

The creative options for control of nonpoint pollution need to include Tribal ideas and experience. Likewise, the use of Best Management Practices needs to use the experience of Tribes. Memoranda of agreement or understanding may be used to make these options formal, and could result in changes to regulatory approaches when appropriate.

expanded tribal role in shared watersheds

Watershed restoration efforts that have potential impacts to resources of interest to Tribes must have Tribal input from the beginning. In some cases the historic understanding of the watersheds can be extended through Tribal knowledge bases, so that the question of 'restoration to what' will have a more accurate ecological description.

Toward an ideal of a 'watershed democracy' in which citizen stakeholders become enabled to take on stewardship approaches, the unique position of Tribes within the social mosaic of other watershed users and inhabitants needs to be taught to the other parties. As the trustee for the Tribes, it is the federal land and resources managers' duty to inform these other citizen stakeholders of the U.S. policy and law in this regard. Otherwise Tribes often bear the brunt of misinformation and resentment when they take on the task of informing these other stakeholders.

The implication of federal water rights protection needs to be included in the proposed policy in such a way that citizen stakeholders understand the context for actions taken. In setting such objectives as instream flows or Total Maximum Daily Loading (TMDL) safety factors, the long-term implications need to be understood. Otherwise there can be potential for parties to try and reject agreements at a later date. Tribes need to have special attention in this information campaign, so that they can see the way that planning might influence any portion of their rights to water in the watershed.

water rights

3) Ensuring a Watershed Approach –

It is recommended that the proposed policy establish a cost-benefits analysis framework for watershed values that includes ecosystem services. This framework should allow Tribes to review the ecosystem components and make recommendations for additions or changes from their understanding of these ecosystem values to their communities. This framework can be used to assist in interpreting choices for a unified and cost effective manner for achieving the goals of restoration.

It is recommended that Traditional Ecological Knowledge (TEK) be integrated into the scientific approach whenever appropriate. Watershed disciplines to make TEK consistent with other science should be pursued together with Tribal governments and institutions. The consistency for TEK elements needs to be brought down to procedures for delineating, assessing and classifying watersheds, and explained within interagency guidelines.

It is recommended that the historic assessment of current and past actions on conditions of federally managed lands and resources include the experience and analysis of Tribes with special knowledge and records of these watersheds.

Where a Tribe has designated a watershed for priority protection and/or restoration, and Federal Lands and resources are held within the watershed, it is recommended that the lead government managing agency seek to enter into a co-management agreement with the Tribe to specify roles and responsibilities for assessment and action.

Where a Tribal Unified Watershed Assessment exists to influence the selection of priority watersheds, it is recommended that the lead government managing agency seek methods to involve natural resources professionals from the Tribe, and to engage in policy exchange and consultation in the prioritization process.

After identification of specific watersheds has been completed, it is recommended that an on-going liaison officer be given the assignment to collaborate with any Tribe that has a strong interest in any of the listed watersheds. This assignment should be able to effect consultation on such details as identification and monitoring of best management practices, or collaboration on the development of Total Maximum Daily Loads.

When reviewing agency processes for issuing use authorizations and licenses in watersheds, the impact of any proposed changes should be carefully explained to any Tribe that has a strong interest in the watershed. It is recommended that implications to a Tribe's Federally Reserved Water Rights be given to the Tribe prior to seeking comments from the general public.

When monitoring will result in adaptive management, it is recommended that Tribes be allowed access to the adaptive management process when this process will impact on a Tribe's interest in the watershed. Potential co-management options should be explored.

tribe wants clarification definition of collaboration process & how it affects policy implementation

It is recommended that the elements of collaboration mentioned above be built into formal agreements with Tribes, and that Tribes be advised of the nature and purpose of these agreements prior to becoming involved in the negotiation of these agreements. It should be the responsibility of the federal government to pay for expenses incurred by the Tribes to accomplish these activities.

The Douglas Indian Association proposes that a collaboration process be established to integrate these recommendations into the commitments listed in the draft Unified Federal Policy to be accomplished by the end of 2000.

It is strongly encouraged that the U.S. Environmental Protection Agency be given a lead role in assisting the Tribes and federal land and resource management agencies to achieve these common objectives. It is recommended that flexible processes be given the power to act in lieu of regulatory actions, such as could be invoked under the Clean Water Act, and that creative solutions be credited in terms that include the values of ecosystem services. (A copy of our comments will be forwarded to EPA for their records.)

ADDENDUM

The situation for Federally Recognized Tribes in Alaska is unique in the United States.

When dealing with environmental issues connected to Wetlands Protection, Unified Watershed Assessments, Federally Reserved Water Rights, Subsistence Practices, and Traditional Ecological Knowledge---all of which have cross-cutting policy implications that are impacted by the Proposed Strategy for a Unified Watershed Approach to Federal Land and Resource Management---the Tribes in Alaska have to deal with the fact that the jurisdictions and management parameters are different in Alaska.

We attempted to bring this subject up in Seattle, when the Tribes were invited to an interagency briefing for Region 10 of EPA on the Clean Water Action Plan. The question of Indian Country, as applied to Alaska, was brought up in both written and oral comment at that meeting on July 9, 1998.

One year has passed, and we are now commenting on a new policy to deal with the Clean Water Action Plan. And yet, the questions that were posed in the earlier meeting still exist and we have not had answers to them. It is also fair to say that the Douglas Indian Association has take every opportunity to participate in watershed meetings held in this past year, and has brought these perspectives to these meetings.

We perceive that the Unified Federal Policy has many positive features to offer. We would like to be very supportive of these features, and yet there are questions as to how these policies will impact on the other policies that we are already reviewing and trying to influence. An example of these policies is the Special Forest Products Management Policy, Draft III, for the U.S. Forest Service in Alaska. The Douglas Indian Association has commented on this draft policy, and received a letter in response, dated June 29, 1999. A copy of this letter is attached. We would like to draw attention to the last substantive paragraph of the letter, which speaks to funding and self-determination.

The review of policies that control the management of watershed resources takes both time and funding. The Douglas Indian Association has been active in this task, and yet so far there is little to show for the effort. We have a lot of paper generated, and find that the task keeps getting bigger.

When a policy, such as Special Forest Products Management, is given to the Tribe for review, there are many concerns brought up about the way that this will limit the availability and quality of the subsistence resources used by Tribal members. When the U.S. Forest Service states: "The extent to which the tribes wish to effect the allocation of natural resources must compete with all of the many other needs such as housing, education, and health care." --- this is <u>not</u> new information to the Tribe. It is not easy to make hard choices with limited resources, but when the impacts have long-lasting implications to the Tribe's interest we have to do the best we can.

This addendum is a perspective we would like to offer to give context to our comments.