



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

OCT 03 2016

Dear Tribal Leader:

The Department of the Interior will host consultation sessions to obtain tribes' perspectives on the current process of negotiating and reviewing Indian water rights settlements and potential improvements to the process. The current process was established in 1990, as provided in the *Criteria and Procedures for the Participation of the Federal Government in Negotiations for the Settlement of Indian Water Right Claims* (55 Fed. Reg. 9,223 (March 12, 1990)).

We are seeking your input as we determine whether to re-evaluate the current program and process. We are particularly interested in your thoughts on the enclosed questions, which are also available at <http://www.doi.gov/siwro>. In addition to the consultation that we will hold on October 9, 2016, at the site of the National Congress of American Indians Annual Conference in Phoenix, Arizona, we will be hosting an additional tribal consultation session at the following time and location:

Date	Time	Location	Venue
Thursday, November 3, 2016	9 a.m. – 11 a.m. (Local Time)	Billings, MT	Billings Bureau of Indian Affairs/ Bureau of Reclamation Office 2021 4th Avenue North Billings, MT 59101

We are also accepting any written input you may want to provide before January 31, 2017. Directions for providing input are included in the attached document.

If you have questions or would like additional information, please contact the Secretary of the Interior's Indian Water Rights Office at (202) 208-1442.

Sincerely,

Lawrence S. Roberts  
Principal Deputy Assistant Secretary –  
Indian Affairs

**U.S. Department of the Interior**  
**Indian Water Rights Settlements – 2016 Tribal Consultation**

Water rights are some of the most important trust resources held by federally recognized Indian tribes (tribes) and the United States as trustee. The trust responsibility owed by the United States Government to tribes and individual Indian beneficiaries is a well-established legal principle that has its origins in the formation of the United States Government. The Secretary of the Interior, through Secretarial Order 3335, has reaffirmed the tenets of this trust responsibility and has established several guiding principles for honoring the trust responsibility for the benefit of current and future generations. One of the guiding principles is to ensure trust resources, such as water rights, are recognized and protected to the maximum extent possible.

Securing water rights and ensuring permanent access to a clean and reliable water supply is an important component of economic security and prosperity for tribes and is necessary to sustain fundamental cultural values. The potential future costs of settling Indian water rights claims are large and difficult to estimate, but the needs are clear and the Department of the Interior (Department) has seen an increase in requests for affirmative litigation or the appointment of water rights negotiations teams in the last few years.

The *Criteria and Procedures for the Participation of the Federal Government in Negotiations for the Settlement of Indian Water Right Claims* (55 Fed. Reg. 9,223 (March 12, 1990) (*Criteria and Procedures*)) delineates specific steps for coordination among the Department, the Office of Management and Budget (OMB), and the Department of Justice in negotiating Indian water rights settlements.

In accordance with Executive Order 13175 and the Department's Tribal Consultation Policy, dated December 2011, the Department has concluded that it would be appropriate to discuss improving the negotiation and review process for Indian water rights settlements in conjunction with consultation with tribes. This consultation will be a follow up to the consultation carried out by the Department in 2014 discussing how the Department could improve its Indian water rights settlement program.

In the upcoming consultation, the Department will address the following questions:

1. Do the *Criteria and Procedures* need to be reviewed and reconsidered given that the *Criteria and Procedures* were promulgated in 1990, prior to negotiation and completion of the great majority of enacted Indian water settlements?
2. Have the *Criteria and Procedures* been useful in achieving Indian water rights settlements? Have they been applied consistently and fairly?
3. If reconsidered, should both the substantive criteria and the procedures, including process through various Federal agencies, be re-examined?
4. What criteria or procedures should be revised? Why should they be revised? What is the best mechanism to accomplish the revision?

## **How to Submit Input**

Provide your input in writing, by January 31, 2017, to Ms. Pamela Williams, Director, SIWRO, at [Pamela\\_Williams@ios.doi.gov](mailto:Pamela_Williams@ios.doi.gov) or Secretary's Office of Indian Water Rights, 1849 C St. NW, MS-6040-MIB, Washington, D.C. 20240.

If you have any questions or would like additional information, please contact the Secretary's Indian Water Rights Office at (202) 208-1442.