



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT 09 2014

Dear Tribal Leader:

The Department of the Interior has begun to re-evaluate its approach to Indian water rights settlements to determine how it can best ensure the availability of resources to address the increasing need for protection of Indian water rights as well as strengthen the oversight, management, and analytical capabilities of the Secretary's Indian Water Rights Office (SIWRO).

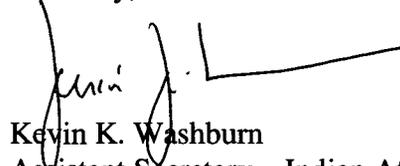
We are seeking your input as we re-evaluate the current program and process and are particularly interested in your thoughts on the enclosed questions, which are also available at <http://www.doi.gov/siwro>. We will be hosting the following tribal consultations sessions to obtain your input:

Date	Time	Location	Venue
Sunday, October 26, 2014	3 p.m. – 5 p.m. (Local time)	Atlanta, GA	National Congress of American Indians (NCAI) Annual Convention Hyatt Regency Atlanta 265 Peachtree St NE Atlanta, GA 30303
Thursday, November 13, 2014	3 p.m. – 5 p.m. (Local time)	Lakewood, CO	Division of Energy & Minerals Development Building 54 13922 Denver West Parkway, Suite 200 Lakewood, CO 80401

We are also accepting any written input you may want to provide before November 30, 2014. Directions for providing input are also included in the attached document.

We look forward to receiving your comments.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs

U.S. Department of the Interior
Indian Water Rights Settlements – 2014 Tribal Consultation

Water rights are one of the most important trust resources held by the 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 to the maximum extent possible trust resources, such as water rights, are recognized and protected.

Securing water rights and ensuring permanent access to a clean and reliable water supply is both an important component of economic security and prosperity for Indian tribes and 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 Department has begun to re-evaluate its approach to Indian water rights settlements to determine how it can best ensure the availability of resources to address the increasing need for protection of Indian water rights and strengthen the oversight, management, and analytical capabilities of the Indian Water Rights Office (SIWRO) and the Department bureaus and offices that work on Indian water rights settlement issues.

As the Department moves forward in re-evaluating its current program and process, we are particularly interested in your thoughts on the following questions, broken down by four main categories.

A. Comprehensive Indian Water Rights Settlement Fund

Currently, funding for Indian water rights settlement negotiation support comes from funds appropriated by Congress each fiscal year for both Bureau of Indian Affairs (BIA) and the Bureau of Reclamation (BOR) programs. Funding to pay the costs of enacted settlements comes either from annual appropriations or, in a few cases, from mandatory but limited funds such as the Lower Basin Development Fund or the Reclamation Water Settlements Fund. Relying on annual appropriations creates uncertainty but attempts to establish mandatory funding mechanisms for settlements have had limited success.

1. Would a long term, stable funding source for Indian water rights be useful and why?
2. Should such a fund cover administrative negotiation costs for the Department and Indian tribes?
3. What is an optimal size for the fund?
4. How should such a fund be managed?

B. Structure and Role of the Secretary's Indian Water Rights Office (SIWRO)

Currently, the SIWRO has two full time staff members who are tasked with coordinating and managing Federal negotiation and implementation teams as well as assisting in developing Departmental policies on Indian water settlements. While the number of Federal teams varies from time to time, it is usually around 30 teams. Federal teams are composed of representatives from affected Departmental bureaus and can include representatives from other Departments. In states with significant Indian water rights

settlement activity, it is common for some bureau representatives to serve on numerous teams in addition to fulfilling regularly assigned bureau duties.

1. Is additional staff needed in SIWRO to help coordinate and manage Federal negotiation teams? If so, what level of staffing would be optimum?
2. What improvements are needed with respect to negotiation and implementation teams in the field?
3. Should there be stronger prioritization or other guidelines for appointing new negotiation teams?

C. Criteria for Negotiating or Evaluating Indian Water Rights Settlements

1. If the Department required tribes to submit economic development plans as a pre-requisite to receiving Administration support for the inclusion of development funds as part of a proposed settlement, what guidelines should be utilized for approving those plans? Would the Department guidelines for such plans be useful?
2. What are the criteria or guidelines by which the Department should evaluate water infrastructure projects proposed as part of a water rights settlement?
3. Have existing BOR tools such as Design Engineering and Construction Advisory Teams been useful?
4. Is a uniform indexing mechanism (to adjust for changes in costs over time) needed for both construction and trust funds?
5. Are state and local cost share guidelines needed and, if so, how might the guidelines be structured?

D. Roles of other Agencies & Bureaus

Currently, BIA and BOR play the largest roles in funding the Department's Indian water rights program (for details, see the presentation available at www.doi.gov/siwro/). Other agencies such as the Fish and Wildlife Service offer technical assistance and the Department's Office of the Solicitor and the U.S. Department of Justice provide legal assistance.

1. What would be an optimum level for BIA water resource programs funding?
2. Should the current ranking and allocation system for allocating BIA water resource program funding be changed?
3. What would be an optimum level for BOR Native American Affairs water resource program funding?
4. Could United States Geological Survey (USGS) play a larger role in settlement negotiation and what would be an appropriate role?

How to Submit Input

We will be hosting tribal consultation sessions to obtain your input on these questions and any additional recommendations you may have about how the Department can improve its Indian water rights settlement program. Please feel free to provide your input in writing, by November 30, 2014, to Ms. Pamela Williams, Director, SIWRO, at 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 Ms. Pamela Williams or Ms. Fain Gildea, Deputy Director, at (202) 208-7548 or Fain.Gildea@ios.doi.gov.