

April 27, 2012

The Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the interior
Washington, DC 20240

RE: Comments regarding Secretarial Order 3317 Draft DOI Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations

Dear Secretary Salazar:

Afognak Native Corporation is pleased to submit these comments regarding the proposed Department of the Interior (DOI) Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations.

By way of introduction, Afognak Native Corporation (hereafter “Afognak”) is an Alaska Native village corporation established under the 1971 Alaska Native Claims Settlement Act. Afognak is managed by a nine member Board of Directors, all of whom are Alaska Native shareholders of the Corporation. Collectively Afognak has over 850 shareholders, some of whom continue to live in the Native Village of Port Lions, located on Kodiak Island in the Gulf of Alaska. Afognak owns 160,000 acres of land in the Kodiak Archipelago located in the Gulf of Alaska. Our lands represent our most valuable asset, providing shareholder use for culture, subsistence, and recreation activities as well as the opportunity for economic development.

The following comments are submitted on behalf of Afognak and are organized according to the Sections in the draft policy.

A) Section I - Preamble

Although the DOI’s Policy on Consultation with ANCSA Corporations is a separate document from the DOI Policy on Consultation with Indian Tribes, much of the ANCSA Corporation Policy references the Policy on Consultation with Indian Tribes and directs the reader to the Tribal Policy.

Recommendation: Include an explanation in the Preamble that the two policies are meant to be read together or merge the two policies into one policy.

Rationale: The Policy on Consultation with ANCSA Corporations is not a stand-alone document and cannot be read without the Policy on Consultation with Indian Tribes.

B) Section II - Definitions

Departmental Action with ANCSA Corporation Implications – this section currently states, in part, that activities “that may have a substantial direct effect on an ANCSA corporation, including but not limited to:

1. ANCSA Corporation land, water areas and resources;
2. The ability of an ANCSA Corporation to participate in Departmental programs for which it qualifies.

Recommendation: Expand definition of “ANCSA Corporation land, water areas and resources” to “within 50 miles of ANCSA Corporation land, water areas and resources”

Rationale: Activities that occur within close proximity to ANCSA Corporation land, such as right-of-ways, resource development, or conservation easements, can affect the value of, access to, and protection of ANCSA Corporation land, resources, and cultural sites. In such instances, ANCSA Corporations should have the ability to engage in Consultation.

ANCSA Corporation Official or Designee – this section currently states, “An official designated in writing by an ANCSA Corporation.”

Recommendation: revise to state, “An individual designated in writing by an ANCSA Corporation to represent the ANCSA Corporation in DOI Consultations.”

Rationale: This revision provides clarity to ANCSA Corporations that they may select the most appropriate individual to represent them in DOI Consultations. The addition at the end of the sentence mirrors the definition of “Tribal Official” in the Policy on Consultation with Indian Tribes and provides additional consistency between the two Policies.

C) Section IV - Accountability and Reporting and V. Training

Section IV and Section V focus on outlining the steps the DOI will take to ensure the Tribal Consultation process is upheld, including that DOI staff will be trained on proper Consultation with ANCSA Corporations and Tribes. Afognak commends the DOI for including these sections, which are designed to protect the Consultation process and ensure its integrity and accountability.

D) Section VI - Innovative and Effective Consultation Practices

Section VI states, “The provision in Section VI, entitled Innovative and Effective Consultation Practices, of the Department of the Interior Policy on Consultation with Indian Tribes shall apply to this Policy, with adjustments as necessary to account for the unique status, structure, and interests of ANCSA Corporations as appropriate and allowable.”

Section VI of the Policy on Consultation with Indian Tribes, states in part, “In Consultation with Indian Tribes, the Secretary will establish a joint Federal-Tribal Team for the purpose of making

recommendations on the implementation of this Policy and for ensuring continued improvement of this Policy.”

Recommendation: Revise Section IV of the Consultation with ANCSA Corporations to state, “The provision in Section VI, entitled Innovative and Effective Consultation Practices, of the Department of the Interior Policy on Consultation with Indian Tribes shall apply to this Policy, with adjustments as necessary to account for the unique status, structure, and interests of ANCSA Corporations as appropriate and allowable. The Joint Federal-Tribal Team will include representation from both village and regional ANCSA Corporations.”

Rationale: There were 13 regional corporations and over 160 village corporations established under ANCSA. Although both village and regional corporations are ANCSA corporations and share the same general responsibilities to address the socio-economic well-being of their shareholders they also have unique obligations and often have a different point-of-view based on their role within their respective villages. In general regional corporations serve thousands of shareholders in dozens of villages. They retain the subsurface land rights for land surrounding those villages. In contrast, village corporations, serve hundreds of shareholders in one or a couple of villages. They retain the surface land rights surrounding those villages. Given the focus of Village corporations on one community, they are often involved in local community issues, while Regional corporations tend to have a broader regional approach to issues because they serve many more communities. Sometimes the villages Regional corporations serve may hold conflicting views on a particular issue. Having both a local community voice through village corporations and a regional voice through regional corporations would provide additional insights into effective Consultation with ANCs.

E) General Recommendations for Effective Communication with ANCs and Tribes

During the Consultation with ANCs in Fairbanks and Anchorage, Alaska, the DOI specifically asked ANCs for recommendations on providing effective communication with ANCs.

Recommendations and Rationale: With hundreds of Tribes, villages, and ANCs with varying telecommunications capabilities across the state of Alaska, mass communication can be challenging. In addition, per E.O. 13175, dozens of federal agencies must consult with ANCs and Tribes on the agencies’ differing responsibilities. To better communicate the agencies’ Consultation scheduling across our vast state, a single, centralized hub designed to provide ANCs and Tribes information on upcoming Consultations would be preferable. To this end, an online approach for communication, supplemented by faxes and direct mailings, may work best for ANCs; therefore, we recommend the following:

1. Establish a centralized U.S. government website to list all upcoming Tribal Consultations for all departments/agencies (i.e. Department of Defense, Department of Interior, Department of Homeland Security). Afognak recognizes the enormity of this task and suggests that if a centralized website is too daunting, the government consider a landing page (such as www.consultations.gov) where users could quickly and easily find links to all Consultation pages for each federal agency. For instance,

the user could go to the www.consultation.gov website, click on the BIA, and immediately be directed to a subpage of the BIA's website that focuses on Tribal Consultations.

The Consultation page within the DOI website should include a list of all DOI Bureaus and Offices so Tribes and ANCs can easily determine what responsibilities fall under the DOI. It should also include a list of the Tribal Governance Officers (TGOs) and Tribal Liaison Officers (TLOs) for each Bureau and Office and a map of each region served by the DOI. Given the complex organizational structure of the DOI, an interactive map, where users could click on a region to pull up all relevant information on Tribal Consultations, TGOs, TLOs, and offices in their areas, may be the best solution.

2. The www.consultation.gov website or the DOI Consultation website should also include a secure database where Tribes and ANCs could provide and regularly update their entity's contact information and the best means of communication for them (e.g. fax, email, mail). Recognizing ANCs and Tribes do experience regular changes in Staff and Board/Tribal Council members it is recommended the user name and password selected should be something which any authorized leadership of the organization could access. The database should allow several individuals to receive information within one organization as some ANCs and Tribes have multiple departments which address different issues. The database could also include an option for the organization to select what types of Tribal Consultations they may be interested in receiving information on. For instance, a user could check a series of boxes that says "send me an automated email" on "all upcoming BLM Tribal Consultations" in "Region 8" "once a week."
3. The DOI should add Native membership organizations to its distribution list, including, but not limited to, National Native organizations (National Congress of American Indians), regional Inter-Tribal organizations (Alaska Inter-Tribal Council), and Statewide Native organizations (Alaska Federation of Natives, ANCSA Village CEOs Association, and the ANCSA Regional Association). Often these member organizations are the most effective way to quickly and efficiently reach large numbers of Tribes and ANCs.

Thank you for your attention to these comments. Afognak respectfully requests that the DOI consider each of these comments and revise the Policy accordingly.

Please do not hesitate to contact me via phone (907-222-9500) or email (slukin@afognak.com) if you would like to discuss this further.

Sincerely,



Sarah L. Lukin
Senior Vice President, Corporate Affairs
Afognak Native Corporation