

Arizona State Land Department Policy No. 06-01
Issued: 12/14/ 06

TO: Division Directors

FROM: Mark Winkleman /s/
State Land Commissioner

DATE: December 14, 2006

RE: SLD – Tribal Government Consultation Guidelines

PURPOSE

This policy establishes basic principles that guide the Arizona State Land Department's ("ASLD") relations with Arizona Tribal governments within ASLD's responsibilities of administration and management of Arizona's State Trust Lands.

The ASLD manages approximately 9.2 million acres of Arizona State Trust land that were granted to the State under the provisions of the 1910 federal "Enabling Act" which provided for Arizona's statehood in 1912. In compliance with the Enabling Act, the State's Constitution and statutory guidelines, the Department manages the Trust lands to generate revenue for the Trust's purposes. All uses of the Trust land and its resources must benefit the Trust's purposes.

ASLD FIDUCIARY RESPONSIBILITIES

The ASLD functions as Trustee of the State's Trust land and therefore must adhere to its fiduciary responsibility to act in the best interest of the Trust. The ASLD's fiduciary responsibilities are governed by extensive and detailed provisions in Arizona's Enabling Act (Sections 24-30, Act of June 20, 1910, c. 310, 36 U.S. Stat. 557-579), the Arizona Constitution (Article 10), and statutes in A.R.S. Titles 27 (mineral estate) and 37 (surface estate); as well as extensive case law.

This fiduciary responsibility, however, does not prevent the ASLD from coordinating Trust land management issues where Trust lands are commingled with Tribal Reservation lands.

<p>This Substantive Policy Statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.</p>

ASLD Recognition of Tribal Sovereignty

The ASLD recognizes the sovereignty of Arizona's Tribal governments and their jurisdiction on Tribal lands within their respective reservation boundaries.

The ASLD recognizes that the federal government has the primary responsibility for assisting Tribes in the land use planning, management and use of a Tribe's Reservation lands.

POLICY GUIDELINES

ASLD Consultation on Trust Land Planning or Action on Trust Estate within Reservation Boundaries

Trust Surface Estate – Where State Trust surface estate exists within Reservation boundaries, the ASLD will notify and request comments from the respective Tribe involving Trust land use planning or action.

Trust Sub-surface (Mineral or Oil and Gas) Estate – Where State Trust mineral or oil and gas estate may exist under Tribal owned surface estate or within Reservation boundaries, the ASLD will notify and request comments from the respective Tribe upon any proposed action regarding the sub-surface estate.

Federal Trust Land Condemnation within Reservation Boundaries

To the extent possible, ASLD will coordinate with Tribal representatives, the Tribe's counsel, the U.S. Bureau of Indian Affairs or other designated federal entity in any congressionally authorized condemnation of State Trust interest within the Tribe's reservation boundaries by providing pertinent records, data and other information that may be requested or schedule or attend meetings to discuss such information in an expeditiously and timely manner.

Upon Congressional authorization of a land condemnation action involving State Trust interests in land located within the boundaries of a tribal reservation, the ASLD will withdraw the interests being condemned from application or sale to facilitate the transfer of title to the federal government. This withdrawal shall remain in effect until it is concluded by the Department that the condemnation transaction is no longer viable or not in the best interest of the State Trust.

RESPONSIBILITY

Responsibility for the enforcement of this policy lies with the ASLD division directors, section managers, staff and the office of the Commissioner.