



**LAW SEMINARS
INTERNATIONAL**

The power of information®

A Timely Conference on New Developments for

Tribal Consultations

*Current requirements, new resources, and strategies for
effective participation*

October 20 & 21, 2022

Pacific Time Zone

Agenda—Day 1

9:00 Introduction & Overview

Andrew Fuller, Esq., *Program Co-Chair*

Ogden Murphy Wallace ~ Seattle, WA

Amelia Marchand, *Program Co-Chair*,

Interim Senior Tribal Climate Resilience Liaison

Affiliated Tribes of Northwest Indians ~ Portland, OR

9:15 Resources for Identifying Tribal Consultation Requirements and Tools for Data-Driven Consultation

Treaties and Treaty Rights as a foundation for Federal/Tribal consultation requirements: Using baseline data in the Tribal Treaties Database, hosted by Oklahoma State University, to identify federal consultation obligations arising from specific treaties

Juliana Nykolaiszyn, *Project Manager*

Oklahoma State University Tribal Treaties Database

Stillwater, OK

Missing and Murdered Indigenous Peoples (MMIP) and the National MMIP Initiative: Creation of a national database for missing Indigenous persons and tips for using it for coordination with state and local agencies

Jessica Hager, *Regional Program Specialist*

National Missing and Unidentified Persons System

Washington, DC

10:30 Break

10:45 Environmental Justice (EJ) as a Driver for Tribal Consultation

Consultation in the context of the Biden Administration's efforts to support and defend Federal Treaty Rights in its environmental protection and climate change initiatives: How Tribes can use the current focus on EJ to initiate and sustain consultation

Andrew Fuller, Esq., *Program Co-Chair*

EJ and Indigenous Peoples: Lessons from the fight for EJ from colonization to the present; tips for leveraging EJ initiatives and consultation processes for achieving Tribal environmental goals

Andrew Curley, *Assistant Professor*
University of Arizona ~ Tucson, AZ

12:15 Lunch Break

1:15 Federal Efforts to Address Equity and EJ with Tribes

Case study of Federal infrastructure funding and the Justice 40 Initiative: NOAA implementation of the 2021 Infrastructure Investment and Jobs Act; lessons from implementation to date, including dispersal of funds and prospects for additional funding

Zachary L. Penney, Ph.D., *Senior Advisor*
NOAA Fisheries ~ Washington, DC

Political aspirations vs. the politically possible: Update on the Health Care, Energy Security, and Climate Change provisions in the Inflation Reduction Act of 2022 of particular interest to Tribes vs. provisions in the Inflation Reduction Act

Gregory A. Smith, Esq.
Hobbs Straus Dean & Walker ~ Washington, DC

3:15 Break

3:30 Consultation with State Agencies

Tips for identifying the relevant lead agency and their consultation policies: Case study of Washington and the role of the Attorney General's Office as legal counsel for Washington state agencies

Asa K. Washines, *Tribal Liaison*
Washington State Attorney General's Office
Olympia, WA

Environmental and climate change issues: Case study of consultation on implementation of Washington's Cap-and-Invest program including building relationships between program stakeholders and Tribes

Rebecca Ponzio,
Climate & Fossil Fuel Program Director
Jody Olney, *Tribal Government Liaison*
Washington Environmental Council ~ Seattle, WA

5:00 Adjourn Day 1

Agenda—Day 2

9:00 Consultation on Public Health Issues: Water Quality

Case study: Water quality standards implementation and enforcement; the Confederated Salish & Kootenai Tribes' ongoing efforts to address transboundary water contamination from Canada with state, federal, and First Nation partners

Rich Janssen, Jr.,
Natural Resources Department Head
Confederated Salish & Kootenai Tribes ~ Pablo, MT

9:30 Using Tribal Historic Preservation Acts to Trigger Consultation on Cultural Resource Issues

The National Historic Preservation Act, its interplay with other laws such as the Native American Graves Protection and Repatriation Act (NAGPRA), and mechanisms for Tribal participation in protecting Native places

Kurt E. Dongoske,
Tribal Historic Preservation Officer
Zuni Pueblo ~ Zuni, NM

Protection for Tribal burial sites: Lessons from State of Washington's failure to timely consult with the Lower Elwha Klallam Tribe before starting construction on renovation of the Hood Canal Bridge at the location of an ancient village and graveyard

Frances G. Charles, *Tribal Chairwoman*
Lower Elwha Klallam Tribe ~ Port Angeles, WA

10:45 Break

11:00 Oklahoma v. Castro-Huerta: Implications for Tribes and Tribal Consultations

Ryan Seelau, Esq.,
NCAI Policy Lead - Legal & Governance
National Congress of American Indians
Washington, DC

11:45 The Emerging New Issue Relating to Boarding Schools, Deaths at Boarding Schools, and Burial Sites

Update on the Secretary of the Interior's report on Boarding School deaths; resulting pending Congressional legislation; how Tribes can use consultation to get a seat at the table when it comes to negotiations on repatriation to their original Nations

Theresa Sheldon, Director of Policy and Advocacy
The National Native American Boarding
School Healing Coalition ~ Minneapolis, MN

Case study: A personal story of the cultural impact of 10 years in a boarding school

James LaBelle, Sr., 1st Vice President
National Native American Boarding
School Healing Coalition ~ Anchorage, AK

1:00 Evaluations and Adjourn

Who Should Attend

Attorneys; Tribal representatives; federal, state, and local government officials; land use planners; environmental professionals; real estate developers; utility service providers; and others involved with economic development projects or other activities that are on, or may affect, Tribal lands, resources, or treaty rights

About the Conference

As the Biden Administration enters the second year of its term, we find that Environmental Justice has become a big driver for Federal agency consultation with Tribes. At the state level, the trend towards greater recognition of the desirability of Tribal consultation also continues.

In this year's program, we are focusing on tools and practical tips for more effective Tribal consultation. Oklahoma State University library system has been collecting and digitizing Tribal Treaties from 1778 to 1886 and has taken the next step of developing a searchable web application. You will hear from the Project Manager on how you can use this resource to identify consultation requirements and other obligations arising from Tribal Treaty Rights. You also will hear about creation of a national database for missing Indigenous persons.

Take a close look at the agenda to see how this program will provide you with a variety of tools to accomplish Tribal goals in the context of environmental protections, Tribal infrastructure needs, public health issues, and cultural preservation. It is an opportunity to learn from lawyers, policy makers, Tribal representatives, and agency staff who will share their experiences with the consultation process, provide insight into the triggers for consultation in various contexts, and discuss best practices based on their experience. We will explore areas where Tribes can create negotiating leverage and close consultation loopholes.

It is an opportunity for all participants in activities subject to consultation requirements to navigate an evolving legal landscape. We hope you'll join the conversation! Register soon.

~ Andrew Fuller, Esq. of Ogden Murphy Wallace and
Amelia Marchand, Esq. of Affiliated Tribes of Northwest Indians, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$895 with a group rate of \$805 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$670. For Tribal members, public interest NGO's, students, and people in their job for less than a year, our rate is \$447.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International. As a value-added bonus, you will receive access to audio and video recordings of the program at no extra charge.

Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, October 14, 2022. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 10.0 Washington MCLE, 10.0 ABCEP environmental professional, and 10.0 AICP land use planner credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$100.

Faculty

Andrew Fuller, *Program Co-Chair*, focuses his practice at Ogden Murphy Wallace on environmental and natural resource matters including regulation and litigation arising under the Clean Water Act (CWA); Clean Air Act (CAA); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and analogous state laws. This includes assisting Indian Tribes with the development and implementation of their Tribal Environmental Programs.

Amelia Marchand, *Program Co-Chair*, earned her BA in anthropology from Eastern Washington University, her MA in environmental law and policy from Vermont Law School, and has worked for 24 years in the fields of cultural and natural resources management and environmental regulation. She currently serves the Affiliated Tribes of Northwest Indians as the Interim Senior Tribal Climate Resilience Liaison and is the Tribal Liaison to the Northwest Climate Adaptation Science Center. She is co-founder of the L.I.G.H.T. Foundation, a Public Voices Fellow of the OpEd Project at the Yale Program on Climate Change Communication, and an alumnus of the Ronald E. McNair Scholars Program and Presidential Classroom. She is a citizen of the Confederated Tribes of the Colville Reservation with diverse Indigenous heritage.

Frances G. Charles is Tribal Chairwoman for the Lower Elwha Klallam Tribe.

Andrew Curley an Assistant Professor in the School of Geography, Development & Environment at the University of Arizona. His research focuses on the everyday incorporation of Indigenous nations into colonial economies and his publications speak to how Indigenous communities understand coal, energy, land, water, infrastructure, and development in an era of energy transition and climate change.

Kurt E. Dongoske is the Tribal Historic Preservation Officer for the Zuni Tribe and is a Registered Professional Archaeologist. He also serves as the President and Principal Investigator for Zuni Cultural Resource Enterprise, an enterprise owned by the Pueblo of Zuni, and serves as a member of the Board of Directors for the National Association of Tribal Historic Preservation Officers.

Jessica Hager is a Regional Program Specialist for the National Missing and Unidentified Persons System (NamUs). She oversees the NamUs cases for Region 2, assisting with case management and by securing forensic and analytical resources. Region 2 consists of AK, ID, MN, MT, ND, OR, SD, WA, WY, and temporarily IA.

Rich Janssen, Jr. is an enrolled Qlispe Tribal Member of the Confederated Salish and Kootenai Tribes and serves as the Department Head for Natural Resources. In that capacity, he oversees the Environmental Protection, Fish, Wildlife, Recreation and Conservation, and Engineering and Water Resources Divisions.

James LaBelle, Sr. (Inupiaq) is 1st Vice President of the National Native American Boarding School Healing Coalition. An enrolled member of the Native Village of Port Graham, he has served on numerous boards and commissions over the years, including the Alaska Federation of Natives (AFN). He is a past member and chairman of AFN's Wellness (Sobriety) Movement. Jim is currently serving on the board of directors of Bridge Builders and the Alaska School of Law.

Juliana Nykolaiszyn is a Project Manager working on implementation of the Oklahoma State University (OSU) Tribal Treaties Database. OSU Libraries has long been a leader in providing access to Native American resources with several digital collections, including the seven-volume Indian Affairs: Laws and Treaties. The Tribal Treaties Database includes an updated comprehensive index and features ease in browsing the agreements between Tribal nations and the United States from 1778 to 1886.

Jody Olney, a citizen of the Muscogee Creek Nation, is the Tribal Government Liaison for the Washington Environmental Council. Before joining WEC, she worked as a legislative assistant to Senator John McCoy (LD 38) for several legislative

sessions. More recently she worked with urban Indian organizations in Seattle on affordable housing and providing oversight for direct service programs.

Zachary L. Penney, Ph.D., (Nimiipuu and a member of the Nez Perce Tribe) is a NOAA Senior Advisor with a focus on fisheries and Tribal engagement. Before joining NOAA, he served as the Fishery Science Department Manager at the Columbia River Inter-Tribal Fish Commission.

Rebecca Ponzio is Climate & Fossil Fuel Program Director for the Washington Environmental Council. Before joining WEC, she worked for several years in salmon recovery at the Puget Sound Partnership and Shared Strategy and before that did environmental permitting and compliance at the Department of Ecology.

Ryan Seelau is NCAI Policy Lead - Legal & Governance for the National Congress of American Indians.

Theresa Sheldon, a citizen of the Tulalip Tribes, is the Director of Policy and Advocacy for The National Native American Boarding School Healing Coalition. She is an advocate for historical justice, civic engagement, upholding and strengthening Tribal sovereignty and the trust responsibility, and protecting sacred places.

Gregory A. Smith is a partner at Hobbs Straus Dean & Walker. His work on behalf of Tribal clients has included introducing and securing passage of federal legislation, advocating for and securing appropriations earmarks, successfully advocating for executive clemency, drafting testimony for Congressional hearings, preparing comments for federal rulemakings, developing legislative strategies, and preparing press releases and related public relations materials. He has also represented his clients on a wide range of matters before virtually every major Federal agency.

Asa K. Washines is the Tribal Liaison for the Washington State Attorney General's Office. He is a former Yakima Nation Councilmember and recently served as Policy Advisor to the Navajo Nation.