

H O N O R A B L E M E N T I O N

BRIDGES TO A NEW ERA: A REPORT ON THE PAST, PRESENT, AND POTENTIAL FUTURE OF TRIBAL CO-MANAGEMENT ON FEDERAL PUBLIC LANDS

by Monte Mills & Martin Nie

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Federal public land management agencies regularly disassociate their land management activities from their interactions with Indian tribes. Moreover, federal public land law generally provides state governments and private interests broad powers and authorities not yet extended to Indian tribes. Public land management agencies must be compelled to work with tribes on a co-management basis. While the term “co-management” is subject to inconsistent interpretations, the core attributes of a co-management approach include: (1) recognition of tribes as sovereign governments; (2) incorporation of the federal government’s trust responsibilities to tribes; (3) legitimization structures for tribal involvement; (4) meaningful integration of tribes early and often in the decisionmaking process; (5) recognition and incorporation of tribal expertise; and (6) dispute resolution mechanisms.

A presidential administration could build a bridge to tribal co-management through multiple proactive measures. New executive orders can explain how existing authorities and processes enable tribal co-management.

The administration should also ensure that federal land planning regulations and agency-specific manuals, handbooks, and policies comport with the principles of tribal co-management. Further, tribal consultation requirements must be implemented as a federal objective on equal standing with the existing federal land management priorities: multiple-use, wilderness, refuge, and others. Finally, protocols for tribal involvement in monument designations under the Antiquities Act should be adopted.

New legislation can also enable tribal co-management on federal public lands. Place-based legislation could effectively codify forms of tribal co-management specific to a particular unit of federal land, and systemwide legislation could provide tribes an opportunity to submit their own proposed co-management plans for consideration by the Secretaries of the Interior and Agriculture. Bridging into a new era of tribal relations does not mean surrendering national interests in public lands; instead, a co-management regime portends a future of increased engagement and enhanced protection for those resources.

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