

# **DRAFT Conceptual Model for Tribal Engagement with the North Pacific Fishery Management Council**

## **Local Knowledge, Traditional Knowledge, and Subsistence Taskforce**

Prepared for Taskforce Meeting 3 - November 9 and 10, 2020

**Purpose:** At the November 2020 meeting, the LKTKS Taskforce will make recommendations on the content of the initial conceptual model for tribal engagement. Prior to the meeting, Taskforce members should read the document and collect some thoughts on the discussion questions related to each section. **The primary purpose of this review is to come to consensus and recommend particular elements or design considerations.** All feedback related to the model's content and structure are welcome from the taskforce. After the November 2020 meeting, this model will be updated and modified based on the taskforce's recommendations.

## 1. Conceptual Model for Council and Tribal Engagement

The LKTKS Taskforce recommends the Council initiate a process whereby federally recognized tribes<sup>1</sup>, or a tribal appointed representative, could regularly engage with the Council. Although tribal engagement should not be viewed apart from the Taskforce's prior onramp recommendations, particularly the training or hiring of a Tribal Liaison on Council staff, engagement is a high-level process change that could have a lasting impact on the relationships held between tribes and the Council. Developing this new institutional interface is a high impact approach to building trust and mutually beneficial partnerships.

Developing guidelines to institute a process for tribes, or a tribally appointed representative, to meaningfully engage with the Council on its process or specific actions recognizes tribal government's status as political sovereigns (Lindemuth 2017). The taskforce is aware that the National Marine Fisheries Service (NMFS) has primary responsibility for undertaking formal Tribal Consultations on marine issues under EO 13175, however, the Council is directly responsible for developing management strategies that affect tribes and their use of resources. For this reason, there are many interrelated benefits to including regularly occurring tribal engagement in the Council's decision-making process:

- Creating a pathway for tribal engagement and two-way communication between tribes and the Council could build relationships and mutual trust through a deliberative and inclusive dialogue.
- Regularly occurring tribal-Council engagement can also provide an opportunity for the Council to better support NMFS as they engage formal Tribal Consultations.
- Potentially reduce the burden placed on the Council and its staff by ensuring Free Prior and Informed Consent (FPIC) principles are adhered to.<sup>2</sup>

What follows is an initial conceptual design for tribal engagement in the Council's decision-making process. Ensuring this process adds value to the Council and tribes will require creativity, flexibility, and equity in the participatory process.

Participation: The individual or group representing tribal interests during the engagement process should be an official representative of a tribal government or entity (i.e., they are speaking with permission on behalf of their group). This ensures that all information that is shared is appropriate, has been approved, and meets FPIC principles while providing opportunity for direct engagement in decisions affecting them.

Participation in a particular meeting for tribal engagement with the Council could be extended to representatives of research organizations as needed or appropriate. Undertaken on an as needed basis, this could create an opportunity for three-way communication among Council members, tribes, and western scientists and address long-standing concerns expressed by

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<sup>1</sup> This includes all Indian tribes identified in the most recent list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs" published in accordance with section 104 of Public Law 103-454 (108 Stat. 4792; 25 U.S.C. 479a-1) and any other Indian tribes acknowledged by the Bureau of Indian Affairs and identified for inclusion on such a list.

<sup>2</sup>The principles of FPIC "recognize(s) indigenous peoples' inherent and prior rights to their lands and resources and respects their legitimate authority to require that third parties enter into an equal and respectful relationship with them based on the principle of informed consent. Procedurally, free, prior and informed consent requires processes that allow and support meaningful choices by indigenous peoples about their development path" (UN Sub-Commission on the Promotion and Protection of Human Rights 2005, 5).

Tribes over inequity in the practices and processes of research Extending an invitation or request to third parties should be mutually agreed upon by participating tribes and the Council.

Evaluation of LK and TK based on tribal engagement: Should TK be shared by tribes or their appointed representative in the engagement process, it must retain the relevant context. The taskforce's protocol will include additional information on this point, however, it is important to preface that tribal engagement should not be treated as an opportunity for extractive data collection. While analysts may be able to synthesize LK and TK observations shared during an engagement meeting, it may not be appropriate or ethical for analysts to extract bits and pieces to convey to the Council or use as a means of plugging data gaps. For this reason, it is important to maintain a do no harm approach when utilizing LK and TK. (For an example of the Do No Harm approach, see the [CDA Collaborative Learning Projects](#).)

Agenda: To facilitate meaningful dialogue between tribes and the Council it may be appropriate to form an agenda prior to the meeting. However, it may be necessary for ad hoc topics to be considered. Topics to be discussed should be determined by Tribes and Councilmembers. For example, the Council may request (at a prior Council meeting) to hear from tribes on a particular issue or subject. This request might be made during staff tasking. If tribes solicit for topics that are beyond the purview of the Council, tribes may be referred to a designated staff person or a Tribal Liaison (pending Council action and approval) who can assist in determining how that topic can be addressed.

Time allocation: Thus far, the taskforce has considered tribal engagement as occurring during the Council's B Report process because this is regularly occurring reporting between agencies (e.g., NMFS or the U.S. Coast Guard) and the Council. Tribal engagement in the B Report process could entail a scheduled block of time (e.g. 4 hours) which is reserved for engagement with tribes and TK holders. The time allocated for engagement between tribes and the Council will likely vary by meeting and the topics requested by Councilmembers or tribes. This will require additional planning for time management at each meeting from Council staff, particularly the individual contacting and working with Tribes who would be expected to communicate and work closely with staff leadership in advance of each Council meeting.

Speaking and rules for engagement: To facilitate trust and relationship building, the dialogue between tribes and the Council should be inviting and not privilege one entity over another. For this reason, tribal speaker's time should not be limited. Tribal speakers may sign up to speak or participate prior to the engagement meeting, at the start of the Council meeting if the B reports are chosen as an appropriate venue for tribal engagement, or there might be prior communication between tribal representatives and the Council's liaison to provide some sense of participation.

Potential next steps: If the Council would like to pursue this idea, the next step would be to task staff or the Taskforce with developing or formalizing the conceptual model for tribal engagement. In making this determination, the Council would need to consider its own goals for pursuing tribal engagement (e.g., receive regular input on specific actions). Over the long-term, if the Council took action to implement tribal engagement, staff would need to establish and maintain relationships with tribes and Alaska Native Organizations (ANOs), communicate and disseminate information on Council actions and requests, and ultimately act as a point of contact with tribes and ANOs to convey issues, questions, and information. For this reason, the Taskforce sees a close relationship between a new tribal engagement process and the appointing or hiring of a Tribal Liaison on Council staff.

**Discussion questions for taskforce members related to tribal engagement**

- *What are the expectations for outcomes of tribal engagement?*
- *How does this process move the Council forward in terms of LKTKS information being incorporated, meaningfully, into its process?*
- *Should tribal engagement be project or action specific (e.g., actions related to halibut or salmon)? Or, should these meetings be held more regularly and be more open across Council actions or issues?*
- *Should tribal engagement in the Council's process be open to all Tribes across the state or only those in the Bering Sea region given the FEP we are operating under? If only the Bering Sea region, how do we define that?*
- *How should tribal participation be solicited? How can Council staff identify the appropriate person to send a letter to?*
- *What is the most appropriate and/or preferred venue for tribal - Council engagement?*
  - *For example, is it the Council's B report process? Should engagement meetings occur outside of the Council's regularly scheduled meetings?*
- *Thinking ahead to a post COVID world, what should the format of this meeting be? Virtual? In-person?*