



NATIONAL  
LABORATORY  
OF THE ROCKIES

# Plugging In: Energizing State- Tribal Energy Collaboration

Golden, CO  
January 21, 2026

# Welcome to NLR



Sherry Stout  
Laboratory Program Manager  
Strategic Energy Analysis and Decision Sciences

# National Laboratory of the Rockies (NLR)

We want to express our gratitude and acknowledge that the land our main campus is on is the traditional and ancestral homelands of the Arapaho, Cheyenne, and Ute peoples. And our Alaska Campus is the traditional and ancestral homelands of Athabascan.

We recognize and pay respect to the Indigenous peoples from our past, present, and future, and we are grateful to those who have been and continue to be stewards of this land.



# Agenda – Day 1

- 1 Welcome and Introductions**

---
- 2 Intro to Tribal Sovereignty and Tribal Governance**

---
- 3 State Role in Tribal Legal Framework**

---
- 4 Lunch**

---
- 5 State and Utility Programs that Support Tribes**

---
- 6 State Facility Siting Issues Affecting Indian Country**

---
- 7 Wrap up**

---

# Agenda – Day 2

**1** Government to Government Best Practices

---

**2** Case Study Discussion

---

**3** Next Steps and Resources

---

**4** Wrap up

---

**5** Lunch

---

**6** Optional campus tour

---

# Welcome



Karlynn Cory, PI



Allison Smith,  
Project Manager



Emma Berkow,  
Researcher



Milana Pakes,  
Researcher

*Project funded by the Department of Energy (DOE)'s Office of Policy,  
in coordination with the DOE's Office of Indian Energy*

# NLR at a Glance

## 3,717 Workforce, including:

- 2,906 regular/limited term
- 454 contingent workers
- 193 postdoctoral researchers
- 100 graduate student interns
- 64 undergraduate student interns

—as of 10/1/2025

## World-class research expertise in:

- Energy Systems Integration
- Transportation and Fuels
- Buildings and Industry

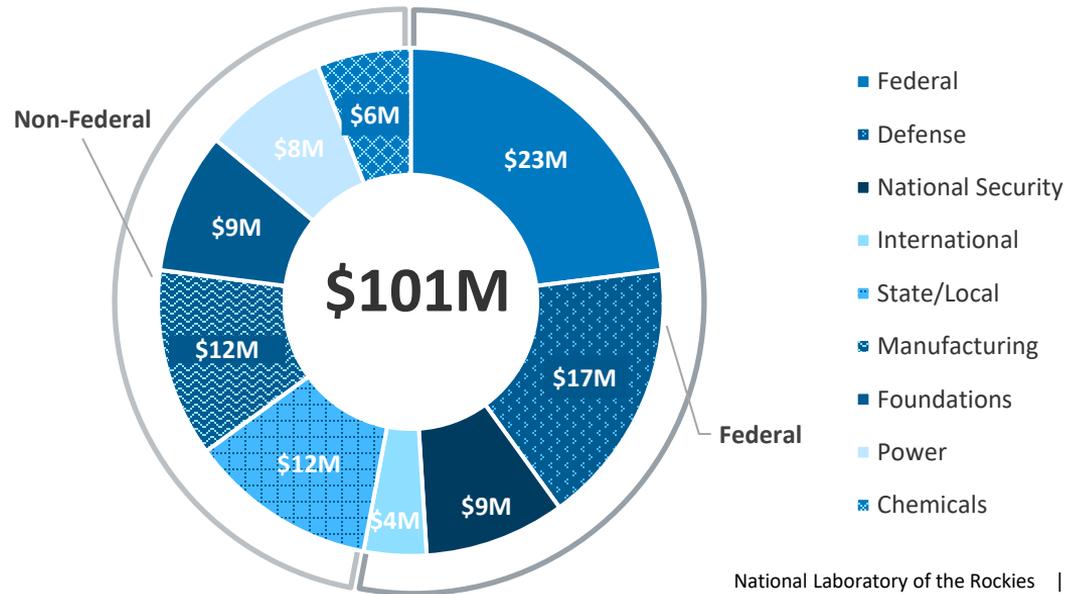
## Partnerships with:

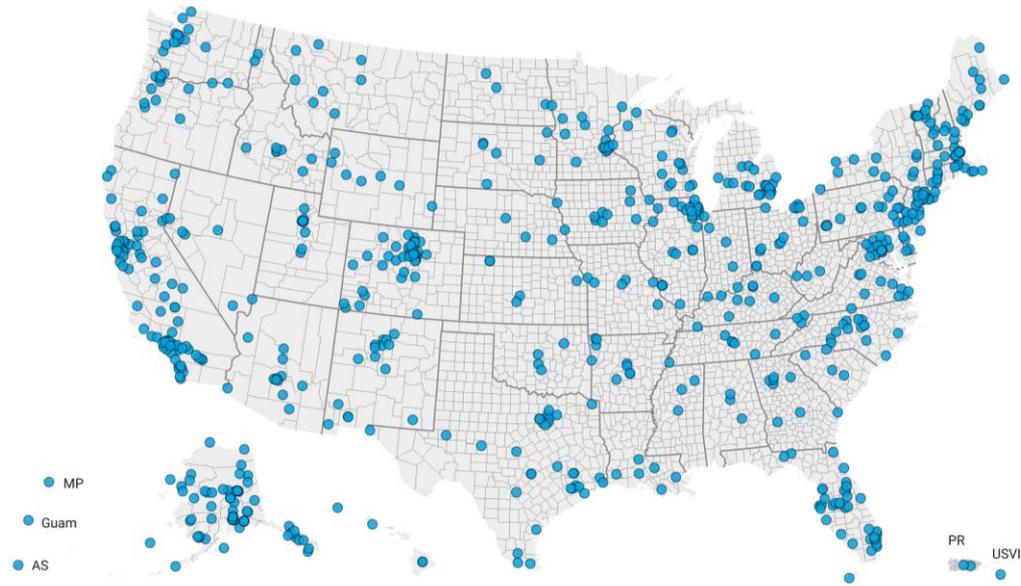
- Industry
- Academia
- Government

**4 Campuses** operate as living laboratories



## FY 2025 Partner Bookings by Sector





NLR has partnered/supported **more than 3,000** communities, tribes, jurisdictions, utilities, and businesses to achieve their **energy goals** through planning, technical assistance, capacity building, workforce development, and more.

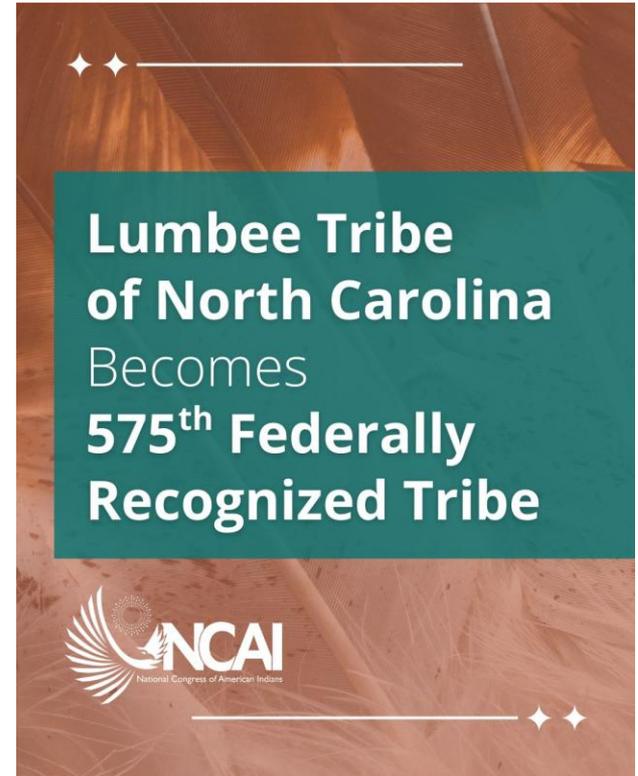


## State-Tribal Collaboration Project Goals

- Identify and answer key state questions about Tribes, Tribal energy support, and Tribal energy issues.
- Identify ways for state governments and Tribes to successfully collaborate on Tribal self-determined energy goals
- Publish 6 fact sheets, hold 5 webinars, and conduct 2 in-person meetings

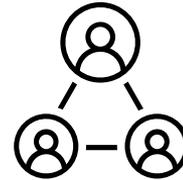
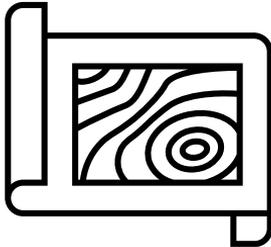
# Federally-Recognized Tribal Entities

- Until recently, there were 574 federally recognized Tribal entities as published in the [Federal Register](#).
- Of those, 229 are in Alaska and 109 are in California



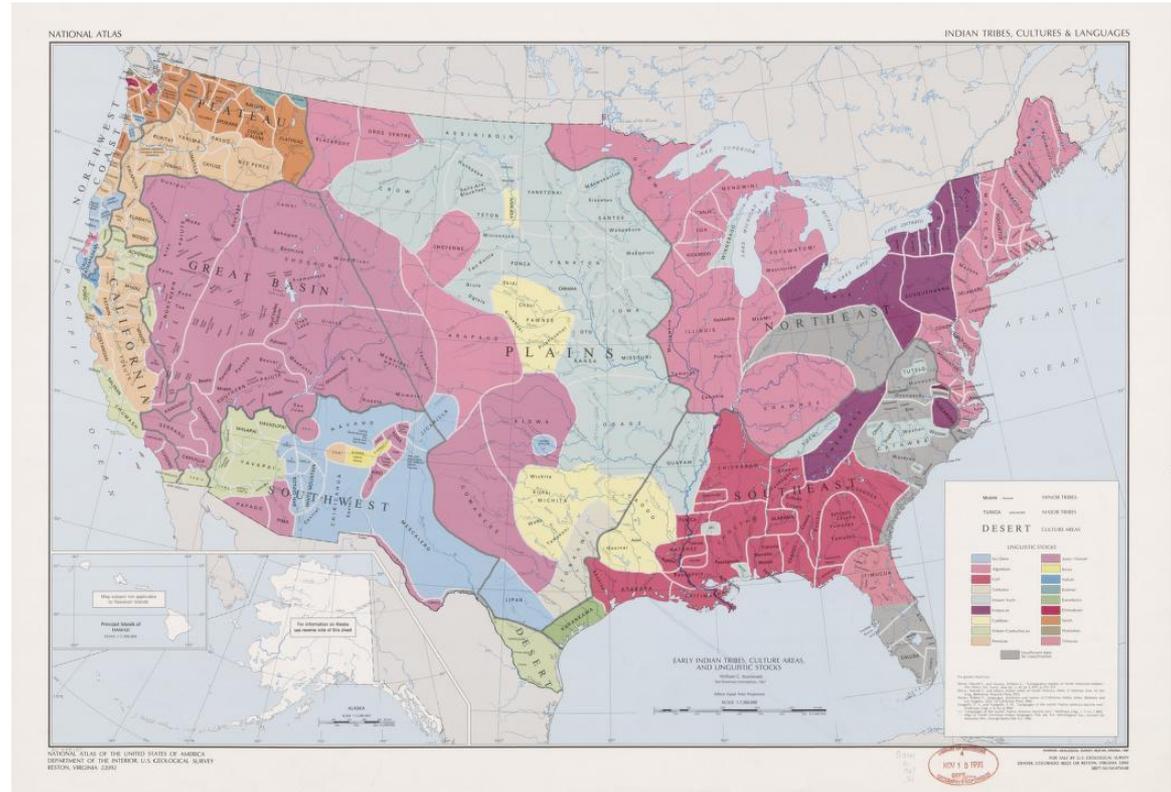
# What is Tribal Sovereignty?

***Sovereignty is the right to govern land, resources, and people***



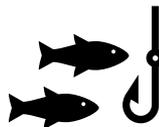
# Why are Tribes Sovereign?

- Native American Indian Tribes existed as entities before the formation of the U.S. government.
- They possess nationhood status and *retain* powers of self-government.
- Their borders also were more fluid than that of the states, as shown



# How Sovereignty is Upheld

- The Constitution, laws, cases, and treaties establishes the “inherent sovereignty” of Tribes and specifies tribal rights
- Treaty rights include rights to use ancestral land (a Tribe’s historic territory) for cultural activities even if it’s not federally-designated “Tribal land”
- Most famous is the Marshall Trilogy of Supreme Court cases:
  - Johnson v. McIntosh (1823) Legal obligation of the federal government to protect Indian lands
  - Cherokee Nation v. Georgia (1831) Established the doctrine of federal trust responsibility
  - Worcester v. Georgia (1832) Established that the laws of the state have no force in Indian lands



# "Domestic Dependent Nations"

- **Cherokee Nation v. Georgia (1831)** established that Tribes are domestic dependent nations
- This recognizes Tribes as distinct political communities with certain rights to self-governance, yet still subject to federal oversight



# Sovereign Rights

- Form their own government
- Make and enforce laws, both civil and criminal
- Control all aspects of commerce within Tribal trust land, including imposing taxes
- Determine membership
- Exclude people from Tribal lands
- Invoke eminent domain on Tribal lands
- Invoke sovereign immunity

**States are therefore not allowed to impose state taxes on tribal entities**

**Neither States nor the federal government are allowed to impose eminent domain on tribal lands, without Tribal consultation and Bureau of Indian Affairs approval**

# Nation-to-Nation Relationship

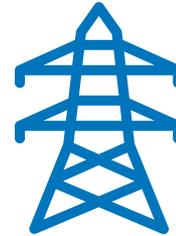
- States often do not have jurisdiction on Tribal lands or have only concurrent jurisdiction as Tribes are not subdivisions of states.
- State laws generally do not apply to Tribes unless explicitly authorized by Congress.

***Tribes are not subdivisions of the State.  
They are sovereign nations.***

# Common Energy Issues for Tribal Nations

- “The Office of Indian Energy would conservatively estimate there are approximately 17,000 homes or 54,400 people without access to electricity across Indian Country.” (*Tribal Electricity Access and Reliability, Report to Congress, August 2023*)

- Often end of the line communities
- May be served by multiple utilities (since often at the junction of utility territories)
- Checkerboard nature of Tribal lands
- Highest rates of unelectrified homes
- Lack of infrastructure investment
- High energy costs for Tribal members and Tribal governments



*"What does energy sovereignty mean to you?"*



**Bernadette Cuthair**  
Ute Mountain Ute Tribe

# What does this mean for energy?

- Inherent sovereignty allows Tribes to regulate economic activity on Tribal lands, including the generation, transmission, and distribution of electricity.
- Tribes can form their own Tribal Utility Authority
  - Can assert jurisdiction over energy development, rate-setting, and community energy access on Tribal land.
  - May negotiate directly with the utility and regulate activities without involvement of the state public service commission
- Tribes can acquire or form their own utility to provide utility services on the reservation
  - May generate and sell power on the wholesale market

# Recognizing Tribal Sovereignty

- Recognizing Tribal regulatory authority over energy, data, and infrastructure is essential to achieving energy sovereignty, resilience, and highlighting Tribal capacity and vision.
- Recognizing Tribal sovereignty can help address regulatory gaps, when Tribes need to be invited to the conversation, and issues of energy security.



# Margaret (Margie) Schaff



Native Energy Resources Counsel, LLC  
Schaff Martin Consulting, LLC

# Introduction to Tribal Sovereignty and Tribal Governance

January 21, 2026

Margaret (Margie) Schaff  
Native Energy Resources Counsel, LLC  
Boulder, CO  
(Cell) 303-717-3876  
margieschaff@nerclegal.com



# Utility Operations in Indian Country

## Substantial Growth in Indian Country over the last 25 years

- Human Resources
- Infrastructure
- Buildings
  - Resorts/Commercial/Agricultural
  - Government/Community
  - Residential (often HUD)
- Economic Impact

Tribes are not just “racial/political” groups or “Stakeholders”. Tribes are governments.

## Types of Utility Operations

- Energy (Electricity, Gas, Propane, Others)
- Water/Sewer
- Telecommunications
- Solid Waste
- Other Related (building codes, safety codes, zoning, etc.)

## Fun Facts:

Tribes must operate their governments without a traditional tax base.

Utility costs are often the largest monthly expense for tribal members.

Utility services can not be deferred and are health and safety issues.

Previously, most utility services were provided by third parties, but as tribes develop, they are taking on utility responsibilities.

“Self Governance” “Self Sufficiency” “Self Determination” “Energy Sovereignty”

# “Indian Country”

**As defined in federal law (18 U.S.C. § 1151.)  
the term “Indian Country” means:**

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

## Types of Lands in Indian Country

1. Tribal Trust – Federal lands held in trust for the benefit of the Indian Tribe as a whole.
2. Tribal Fee – Fee land owned by the Indian Tribe. Often times it is in the “Fee to Trust” Process.
3. Indian Allotments - Federal lands held in trust for the benefit of the (sometimes numerous) Tribal, Indian, and sometimes non-Indian owners. Many times, these are not within reservation boundaries and sometimes are not affiliated with any tribe.
4. Indian Fee – fee lands owned by a tribal member.
5. Non-Indian Fee – lands within Indian Country that are owned by non-Indians.
6. Easements, Rights of Ways, Leases and other property rights.

### “Checkerboarded”

When lands within a reservation are checkerboarded with tribal, fee, allotted, and other lands, the jurisdictional analysis will be different for each of the lands.

# Federal/Tribal Relationship

## The Federal Trust Responsibility

- Grounded in treaties and statutes and expressed in federal case law.
- “Trust” – Trustee/Beneficiary relationship
- Trust Resources – Indian resources held in trust- Land, Natural Resources.

## Treaties

- Have the force of statutory law.
- Different tribes have different treaties.

Alaska is different

## Federal Indian Policy

- Historically paternalistic and destructive – federal policies for Indian Country have been largely unsuccessful for Indians and for society generally.
- Federal policy since 1961 has been “Self-Determination” with a “Tribal Resurgence and Governance” policy since 1980.
  - Example 1975 Indian Self-Determination and Education Assistance Act – 638 Contracts

Easements and Rights of Ways in Indian Country – governed in 25 CFR 169

Federal Indian Resources and Rights are both ON and OFF Reservations.

★ When States deal with tribes, often they are dealing with federal matters. Ask – Could the state do this on a federal military base or on other federal lands?

# Elements of Tribal Sovereignty

Inherent Tribal Sovereignty – Does not derive from the United States. Federal Law acknowledges that tribal power stem from tribal rights that have never been extinguished from times before the USA.

## Tribal Powers:

- Determine form of Tribal Government
- Determine Membership
- Power to Legislate and Tax
- Power to Exclude Persons from Tribal Territory
- Power to Administer Justice

**Sovereign Immunity** – Immunity from suit is a well established feature of sovereignty for all governments. The Government may not be sued without its consent.

- Applies within or outside of tribal lands
- Applies to commercial and governmental purposes
- Applies without regard to whether the actions are subject to state jurisdiction

**Tribal Laws** – Examples - Tribes can make utility laws, form utility commissions to regulate utility matters, franchise utilities, determine eminent domain policies and procedures, etc.

Just as a State has sovereign powers within its jurisdiction, so does a Tribe.

# Initial Issue: Jurisdiction – Federal or Local?

- The federal government has significant jurisdiction over energy, telecommunications and water activities.
- Anything *not federal* is state, or if under Indian jurisdiction, tribal.
- Unless statutory, tribes, tribal businesses and tribal members have the same federal obligations as states and others.
  - Noteable exception is that tribes, like states, are not federally taxed. Tribal members *are* federally taxed, unless the income results from federally held trust resources.

- Tribal utilities or businesses doing business in a manner that is federally regulated or tribes that wish to build or own federally jurisdictional facilities, such as managing wholesale loads, hydroelectric dams, transmission or power generators that are connected to the grid, must know and follow federal law and regulations.
- FERC has acknowledged that tribes are “governments” and are not “Public Utilities” (generally for-profit entities) under the Federal Power Act.

## Next Issue: State or Tribal?

Depends on *where* the activity takes place, *who* is involved in the activity, and the type of interests at stake.

Consider the jurisdictional statements in a tribe's treaty, the tribe's Constitution, tribal laws and ordinances, tribal council resolutions and other governance documents.

## Can the tribe exercise jurisdiction?

- *Devils Lake Sioux Indian Tribe v. North Dakota Pub. Serv. Comm'n*, 896 F. Supp. 955 (D. N.D. 1995): The issue of tribal jurisdiction over utilities on reservations is a federal question
- *Nevada v. Hicks*, 533 U.S. 353, 360 (2001): Tribal “ownership [] of land . . . is only one factor to consider in determining whether [an exercise of tribal governance] of nonmembers is necessary to protect tribal self-government or to control internal relations, but land status “may sometimes be a dispositive factor.”

### On Trust and Tribally owned lands:

- *Worcester v. Georgia*, 31 U.S. 515, 555 (1832): Tribes have plenary and exclusive power over **their members and their territory** subject only to limitations imposed by federal law.
- *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 137 (1982): “Tribes have inherent sovereign authority in Indian Country to regulate **entities doing business on tribal lands** as an essential attribute of Indian sovereignty; it is a necessary instrument of self-government and territorial management.” And, tribes can impose energy taxes on third party activities on trust lands in Indian Country.

### On Non-Tribal/Trust lands in Indian Country:

- *Montana v. United States*, 450 U.S. 544 (1981): (1) a tribe may regulate the activities of non-members who enter consensual relationships with a tribe or its members through commercial dealing, contracts, leases, or other arrangements; and (2) a tribe may retain inherent power to exercise civil authority over the conduct of nonmembers when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.

## Can the State Exercise Jurisdiction?

Almost all reservations have third party utility companies providing services to the tribe and to tribal members. There is generally a *de facto* application of state rules by the utilities to their tribal customers on Indian lands.

*McGirt v. Oklahoma*, 140 S. Ct. 2452, 2476 (2020): The policy of leaving Indians free from state jurisdiction and control is deeply rooted in this Nation's history" *Rice v. Olson*, 324 U.S. 786, 789 (1945). Chief Justice Marshall, for example, held that Indian Tribes were "distinct political communities, having territorial boundaries, within which their authority is exclusive . . . which is not only acknowledged, but guaranteed by the United States" a power dependent on and subject to no state authority. *Worcester v. Georgia*, 6 Pet. 515, 557 (1832); see also *McClanahan v. Arizona Tax Comm'n*, 411 U.S. 164, 168-169 (1973). And in many treaties, like those now before us, the federal government promised Indian Tribes the right to continue to govern themselves.

- *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 142-43 (1980): The Supreme Court established a two-part test, either of which can make state civil regulations inapplicable to Indians in Indian Country. 1) the exercise of state authority may be preempted by federal law. 2) The application of state laws or regulations may "infringe on the right of reservation Indians to make their own laws and be ruled by them." These cases are to be analyzed against a "backdrop of tribal sovereignty" giving rise to a presumption that state jurisdiction does not apply in Indian Country.
- In making the decision whether there is preemption or infringement, the courts have used a balancing test in which they balance federal, tribal, and state interests related to the matter.

A review of the relevant state laws, including the state constitutions, is also important as many states limit interactions with Indians.

# State Taxes

Including Utility Taxes and State Programs which amount to Taxes

*Okla. Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 458 (1995): “[A]bsent cession of jurisdiction or other federal statutes permitting it . . . a State is without power to tax reservation lands and reservation Indians.”

Utility taxes can also be rejected based on tribal sovereign immunity.

- California statute acknowledges the right of Indian tribes to decline to pay certain utility (water) fees based on sovereign immunity.
- Case Law- *Oneida Tribe of Indians of Wisconsin v. Village of Hobart*, 891 F. Supp. 2d 1058 (2012)

Many States have forms for declaration of tax exemption.

# Lunch

---

On your own or NREL Cafe

# State Role in Legal Framework

---

# Ravynn Nothstine Nothstine (Iñupiaq)



Senior Policy Analyst  
Alliance for Tribal Clean Energy



**ALLIANCE**  
FOR TRIBAL CLEAN ENERGY



# State Role in Tribal Legal Framework and Gov-to-Gov Relations

Ravynn Nothstine (Native Village of Wales), Senior Policy Analyst  
Alliance for Tribal Clean Energy

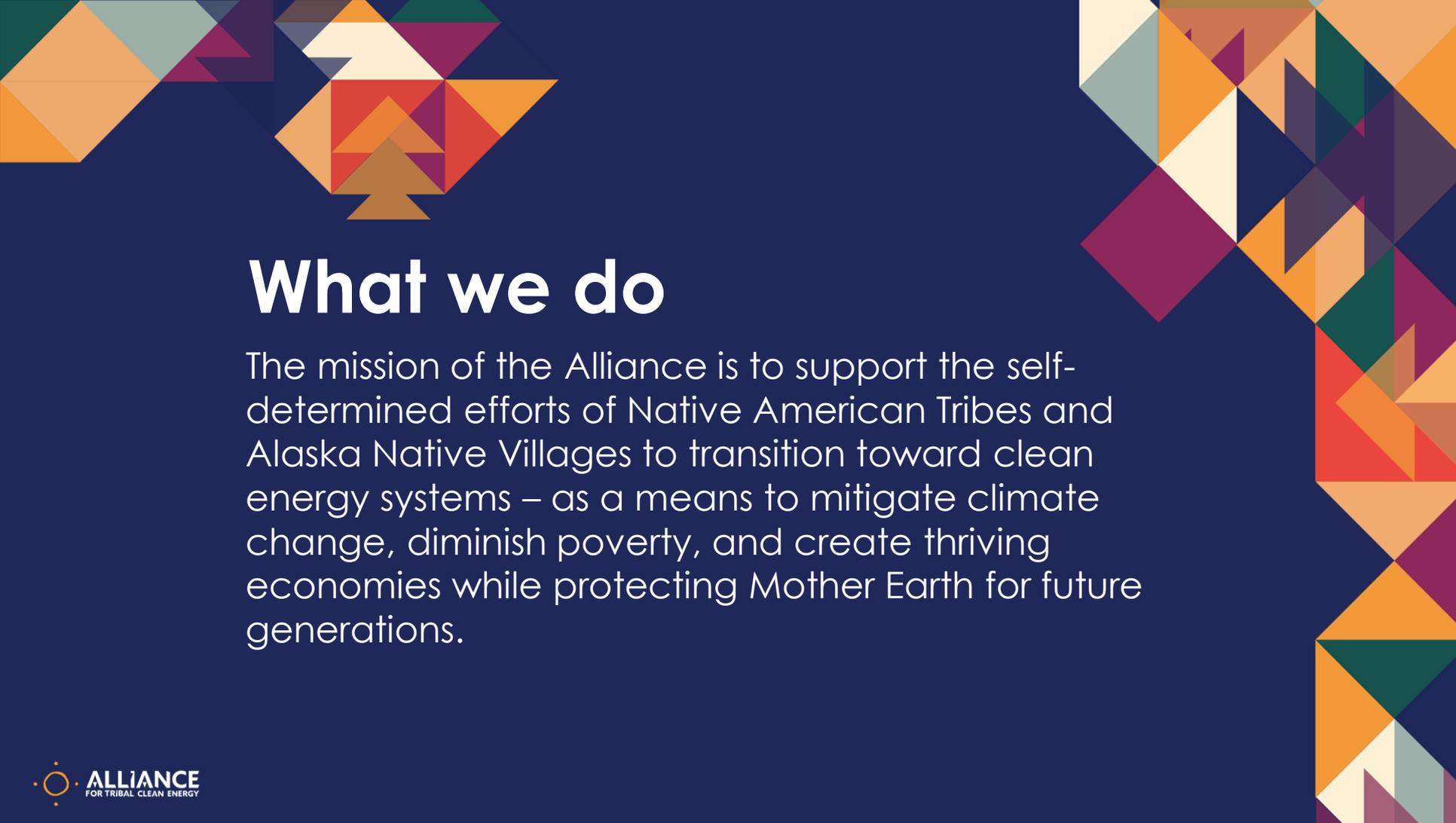


# Who we are

The Alliance is a 501(c)(3) nonprofit organization founded in 2016 by Chéri Smith (*Mi'kmaq Descendant*), a clean energy veteran with more than 25 years of experience leading both public and private renewable energy development, policy, finance, workforce, and education initiatives.

Our highly qualified in-house team includes Indigenous and non-Indigenous subject matter experts in engineering, finance, law, installation, operations and maintenance, workforce development, and more.





# What we do

The mission of the Alliance is to support the self-determined efforts of Native American Tribes and Alaska Native Villages to transition toward clean energy systems – as a means to mitigate climate change, diminish poverty, and create thriving economies while protecting Mother Earth for future generations.



# How we do it

Starting with our Tribal Engagement team, the Alliance offers no-cost clean energy services to Tribes through four key pillars of support, built upon a strong and deep foundation of Native American cultural values.

# Alliance Four Key Pillars



**TECHNICAL  
ASSISTANCE &  
PROJECT FINANCE**



**ENERGY POLICY  
& GOVERNMENT  
RELATIONS**



**INFORMATION  
RESOURCES  
& EVENTS**



**EDUCATION &  
WORKFORCE  
DEVELOPMENT**



# STATES AND TRIBAL PRESENCE

Tribal presence exists across the United States, *regardless* of recognition status.

36 states have federally recognized Tribes.

States with the most Tribes:

- Alaska (229)
- California (109)

States without federally recognized Tribes:

Arkansas, Delaware, Georgia, Hawaii, Kentucky, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, West Virginia





# RECOGNITION vs. PRESENCE

What this means in practice:

- The absence of federally recognized Tribes does not mean the absence of Tribal peoples or Tribal land relationships.
- Tribal relationships to land predate states.
- Ethical and policy responsibility to engage respectfully exists in all states.
- Sovereignty is not erased by recognition status.





# WHAT THE LAW SAYS (AND DOESN'T SAY)

- Tribal sovereignty is recognized by:
  - The U.S. Constitution
  - Treaties
  - Federal law (which also establishes the baseline for state authority over Tribes)
  - Supreme Court precedent
- Tribes are exempt from state law unless Congress says otherwise.
- No federal statute dictates how states and Tribes must interact.
- *Result:* State-Tribal relations have evolved unevenly, often through litigation.





# HOW STATES AND TRIBES HAVE INTERACTED HISTORICALLY

In the absence of clear federal direction, state-Tribal relations evolved unevenly with jurisdictional conflict being the primary source of tension.

Some cooperation emerged around:

- Regulatory functions
- Taxation
- Service delivery

Beginning in the 1980s, states started to explore intergovernmental agreements with Tribal governments.





# STATE – TRIBAL AGREEMENTS AS A POLICY TOOL

Many states now use:

- Executive orders
- Legislation
- Formal consultation policies

These agreements:

- Acknowledge Tribal sovereignty
- Affirm government-to-government relations
- Establish procedures for engagement

***Important Key Point:*** These agreements do not grant or create Tribal sovereignty, they recognize it.





# EXAMPLE: WASHINGTON'S CENTENNIAL ACCORD

- Signed in 1989 with 26 Tribes

## Recognized:

- Sovereignty of the state and Tribes
- Government-to-government relationship

- Established formal engagement procedures

## Other states with similar policies:

- Arizona, New Mexico, Utah, Oklahoma
- Nebraska, Oregon, North Dakota
- Mississippi, Michigan, Alaska, Minnesota
- These frameworks also guide how state agencies, municipal utilities, and cooperatives are expected to engage with Tribes, even when utilities are not formal signatories.





## WHY THESE AGREEMENTS MATTER

Tribes increasingly exercise political and legal authority.

Agreements written with Tribal input:

- Reduce conflict
- Improve outcomes
- Create durable working relationships

Poorly written agreements can undermine sovereignty.





# WHAT STATES CANNOT DO

(absent explicit congressional authorization or Tribal consent)

## States CANNOT:

- Condemn or require use of Tribal lands
  - Exert zoning authority over Tribal lands
  - Impose state environmental or permitting regimes on trust land
  - Require state environmental review in Indian Country
  - Tax Tribes or Indians on reservation lands
  - Regulate Tribal utilities or infrastructure without consent
  - Interfere in Tribal elections or internal governance
  - Determine eligibility for Tribal programs
- 

# CRIMINAL AND REGULATORY LIMITS

---

States generally cannot:

- Prosecute Tribal members for crimes in Indian Country  
*(exceptions exist under federal law or specific agreements)*
- Regulate activity on trust land absent:
  - Congressional authorization, or
  - Tribal consent
- *Key point:* State authority is limited and conditional, not inherent.



# Tribal Consultation vs Consent: Understanding the difference

## Tribal Consultation

## Tribal Consent

<b>What it is</b>	A Government-to-Government process to seek Tribal input before decisions are made	A process where Tribal approval is required before moving forward
<b>Purpose</b>	To listen, consider impacts, and improve decision making	To respect Tribal authority and decision making power
<b>Who decides</b>	State or federal agency makes the final decision	Tribe decides whether to approve or not
<b>What is required</b>	Early notice, good faith engagement, and consideration of Tribal input	Formal Tribal agreement such as a resolution or signed consent
<b>Example</b>	A state agency consults with Tribes on a transportation project and adjusts the design to reduce impacts	A project on Tribal trust land proceeds only after the Tribe approves the lease or agreement

Consultation is about listening and considering, not permission.  
Consent is about Tribal authority and decision making, not just input.



## WHERE STATES DO HAVE A ROLE

Any state role in Indian Country is discretionary and consent-based.

States can:

- Enter into agreements at Tribal discretion
- Support Tribal governance and planning
- Coordinate where jurisdictions overlap
- Respect Tribal law and institutions
- Avoid creating regulatory barriers
- Provide guidance to state agencies, municipal utilities, and cooperatives on appropriate Tribal engagement



## Tribal Liaisons: Why They Matter

- Single, trusted point of contact between Tribes and state agencies
- Ensures early, meaningful Consultation
- Builds state understanding of Tribal sovereignty and treaties
- Improves coordination across agencies
- Strengthens trust and avoids conflict

Permitting example: Tribal liaisons help ensure Tribes are engaged before permits are drafted, coordinate outreach across agencies, and address issues early, reducing delays and conflict.



# SUPPORTING TRIBAL ENERGY SOVEREIGNTY (STATE ROLE)

---

## States can:

- Formally acknowledge Tribal sovereignty
- Direct utilities to work directly with Tribes
- Clarify that PUCs lack authority on Tribal lands
- Invite Tribes into relevant state processes
- Offer government-to-government consultation early
- Incorporate Tribal energy plans into state planning
- Encourage or direct municipal utilities and cooperatives to engage directly with Tribes early in project planning



# PLANNING, PERMITTING AND INFRASTRUCTURE

---

In practice, respectful State coordination should:

- Seek Tribal input in generation and transmission siting
- Coordinate, not override, Tribal land use authority
- Avoid roadblocks to Tribal interconnection
- Provide exemptions or carve-outs acknowledging Tribal jurisdiction
- Recognize Tribal utilities as governmental entities

# FUNDING, PROGRAMS AND EQUITY

---

Program design and eligibility decisions directly affect Tribal sovereignty, therefore States should:

- Allow Tribes to apply directly for funding
- Avoid forcing Tribal partnerships with counties or agencies
- Ensure Tribal eligibility in grant programs
- Track Tribal participation data
- Address structural barriers tied to trust land status
- Ensure Tribal eligibility and direct access in state administered and utility administered programs

# LOW-INCOME ENERGY PROGRAMS

---

Program design choices can either support or undermine Tribal self-determination. States can:

- Ensure Tribal inclusion in programs like LIHEAP, CARE, weatherization
- Allow Tribes to administer their own programs
- Remove barriers for trust land residents
- Adapt programs for:
  - Off-grid communities
  - Remote locations
  - Tribal utilities
- Consult Tribes on program design
- Ensure utility administered programs are accessible to Tribal households and Tribal utilities.



## KEY TAKEAWAYS

- Tribes are sovereign governments.
- State authority is limited by law.
- Cooperation is voluntary and consent-based.
- Tribal law and land status matter.
- Respectful engagement strengthens outcomes for all.



# Our Guiding Principle: *Etuaptmumk*

The Alliance for Tribal Clean Energy was founded on a guiding principle of the Mi'kmaq that is defined by one word: **Etuaptmumk**.

Translated to English, Etuaptmumk means **“Two-Eyed Seeing”** – the willingness to see from one eye the strengths of Indigenous wisdom and knowledge and, from the other eye, the strengths of Western knowledge and technology. This is a concept that our founder’s Mi'kmaw ancestors have applied to daily life since first contact with European settlers, recognizing that if they were to have successful and beneficial relationships with settlers, rather than conflict, they must espouse an attitude of cooperation and respect for different perspectives – both for their own survival and to protect Mother Earth.

Our organization embodies this way of thinking in the way we are a team of Indigenous and non-Indigenous people united in our beliefs, our desire to support the self-determination and sovereignty of Native Americans, and our collective understanding that traditional Indigenous knowledge and ways of knowing have a profound and long-established understanding of the value of collaboration and appreciation of differences. We believe that cooperation, communication, and collaboration between Native and non-Native people is essential for a just transition – and for the very survival of Indigenous Peoples ... and all people.



# Wela'lioq! (Thank You!)



Connect with us!

[policy@tribalcleanenergy.org](mailto:policy@tribalcleanenergy.org)



@tribalcleanenergy



@tribalcleanenergy



AllianceforTribalCleanEnergy



tribalcleanenergy.org

# State and Utility Programs that Support Tribes

---

Karlynn Cory

# What are low-income programs?

- These programs may be established by the utility or required by the state public services commission
- Differ in eligibility requirements, but all seek to provide financial assistance to customers having difficulty paying their electric bill.
- Programs are available to all eligible customers
- Common features of these programs:
  - Moratorium on disconnections during extreme weather
  - Special rates
  - Weatherization and energy efficiency opportunities
- All kinds of utilities operate programs designed to support low-income customers
  - investor-owned utilities, cooperatives, and municipal utilities
- Programs are funded through various methods, including federal low-income funding provided directly to the state or Tribe (e.g. Low-Income Home Energy Assistance Program [LIHEAP])
- With these federal funds, Tribes can provide programs for low-income individuals including payment assistance for heating/cooling bills.

# Low-income utility programs by non-Tribal utilities

## Southern California Edison (SCE)

- Offers qualifying individuals and households of two or more people 32.5% off their electric bills through the California Alternate Rate for Energy (CARES) program.
- The Family Electric Rate Assistance (FERA) program provides qualifying families and households of three or more an 18% discount on their electric bills.

## United Way Southern Nevada

- Customers of United Way Southern Nevada who are age 62 and over and meet income guidelines qualify for a program that will pay a past-due energy bill once during a 12-month period.

## Consumers Energy Michigan

- Allows customers who are income-eligible to participate in a 24-month affordable payment plan with a fixed monthly bill which will also pay down past due balances.

# Non-Tribally owned utility with a Tribal specific low-income program

- Bonneville Power Administration (BPA) offers grants to Tribes to provide no- or low-cost energy efficiency projects to household at or below 200% of the federal poverty level (FPL).
- 30 different federally recognized tribes in BPA territory that are eligible
- Funding specifically set aside by BPA, 10% directly distributed from BPA for the “Tribal Set Aside program
- Remaining 90% distributed to states in the form of grants
- Allotment is determined by census, and 3% of that allotment must be spent on tribal members
- This is an example of a direct-to-Tribe federal assistance program which bypasses state intermediaries and prioritizes Tribal utilities that have regulatory autonomy and are pursuing energy sovereignty goals.

# Low-income utility programs developed by Tribes

## Navajo Tribal Utility Authority

Two offerings for low-income customers:

- the Senior Discount Program offers a 10% discount to those 60 or older with an annual income of less than \$21,000;
- Life-Support Discount that offers a 10% discount to customers with serious health conditions that would be life threatening if utility service was terminated.

## Umpqua Indian Utility Cooperative

- Low-income residential electricity fixed monthly charge reduction of 43% (from \$24.61 to \$13.91)
- Demonstrates the Tribal utility's ability to set its own rates based on community affordability.

## Gila River Indian Community Utility Authority

- Allows for disconnections due to non-payment to be delayed during excessive heat or cold
- Prioritizes customers with life-support equipment during outages.
- Both programs = model for incorporating health equity into utility operations.

## Tohono O'odham Utility Authority

- Uses revenue from gaming to provide a utility bill subsidy for elderly and low-income households
- Illustrates the use of Tribal enterprise revenues to support community welfare.

# Other considerations



## Data Sovereignty/Confidentiality:

- Many Tribes are now exerting Data Sovereignty or the right to control, maintain, and keep data confidential.
- Tribal utility or utility authority should maintain control over household-level data collected as part of the low-income program administration
  - Including consent over how the utility uses the information, income verification procedures, and enrollment information



## Inadequate Grid Connectivity:

- Many Tribal homes lack grid connection. The Office of Indian Energy conservatively estimates that approximately 17,000 homes or 54,400 people are without access to electricity across Indian Country.
- Utilities should consider how low-income programs account for off-grid or underserved homes that need solar and storage, microgrids, or fuel assistance, not just rate discounts.



## Tribal Sovereignty:

- Tribes are not political subdivisions of the state. State regulators and agencies must recognize Tribal governments as independent sovereigns, not local governments or extensions of their authority.
- States cannot impose eligibility criteria, reporting requirements, or program structures on Tribes receiving state-managed funds without free, prior, and informed Tribal consent.

# State Facility Siting Issues Affecting Indian Country

---

Margie Schaff and Pilar Thomas

# Pilar Thomas (Pascua Yaqui Tribe of Arizona)



Retired Indian energy attorney  
University of Arizona, James E. Rogers  
College of Law



# Thank you!

This work was supported by National Laboratory of the Rockies for the U.S. Department of Energy (DOE), operated under Contract No. DE-AC36-08GO28308. Funding provided by Department of Energy Office of Policy. The views expressed in the article do not necessarily represent the views of the DOE or the U.S. Government. The U.S. Government retains and the publisher, by accepting the article for publication, acknowledges that the U.S. Government retains a nonexclusive, paid-up, irrevocable, worldwide license to publish or reproduce the published form of this work, or allow others to do so, for U.S. Government purposes.

**NATIONAL  
LABORATORY  
OF THE ROCKIES**

An aerial photograph of the National Laboratory of the Rockies campus. The image shows several large, modern buildings with blue roofs and brick accents, interspersed with green lawns and parking areas. In the background, there are rolling green hills and a range of mountains under a clear blue sky. A semi-transparent blue box is overlaid on the top left, and a larger semi-transparent blue box is overlaid on the right side of the image, containing the main title and date.

NATIONAL  
LABORATORY  
OF THE ROCKIES

# Plugging In: Energizing State- Tribal Collaboration

January 22, 2026

# Agenda – Day 2

**1** Government to Government Best Practices

---

**2** Case Study Discussion

---

**3** Next Steps and Resources

---

**4** Wrap up

---

**5** Lunch

---

**6** Optional campus tour

---

# Government to Government Best Practices

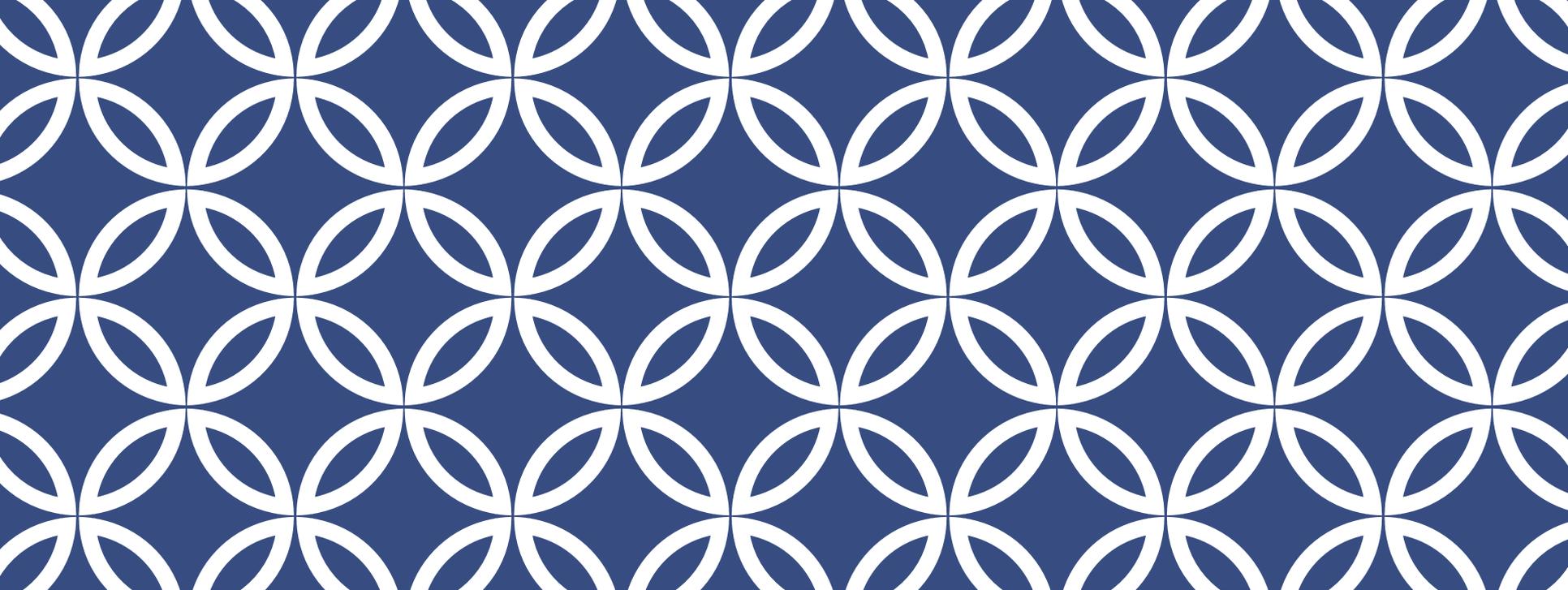
---

Pilar Thomas

# Pilar Thomas



Retired Indian energy attorney  
University of Arizona, James E. Rogers  
College of Law



# BEST PRACTICES IN STATE-TRIBE GOVERNMENT TO GOVERNMENT RELATIONSHIPS

National Laboratory of the  
Rockies  
State-Tribal Cooperation  
Workshop, Jan. 22, 2026

# DISCUSSION TOPICS

Background of Tribal Government Status

Modern History of Government to Government Relationship

Tribal-State Relationships

Federal Consultation Practices

State Consultation Practices – Examples

Major Benefits and Other Considerations

# BACKGROUND OF TRIBAL GOVERNMENT STATUS

Inherent and Pre-existing sovereign rights and authorities

Extra-constitutional

Treaty and US Constitution based relationship

Political, not racial/minority, status

# MODERN HISTORY OF GOVERNMENT TO GOVERNMENT RELATIONSHIPS

President Nixon's Special Message to Congress on Indian Affairs (1970)

- Rejection of termination policies and promotion of "self-determination"

Indian Education and Self-Determination Act (1975)

- Indian tribes contract with federal government to directly operate and administer federal programs, such as law enforcement, social services, education, health, natural resource management

President Reagan's EPA Tribal Policy (1984)

- Encourage the administration and operation of environmental programs by tribes on tribal lands

President Clinton's Executive Order 13175 on Government to Government Consultation (2000)

- Solidified consultation policies and practices across the federal agencies

Tribal-state relationships

- A checkered past, with many states still antagonistic to Indian tribes and interests

# TRIBAL-STATE RELATIONSHIPS

30+ States with federally recognized tribes

Challenges vary

Early consultation adopters

- NM (2003), CA (2009)

Cooperative relationship examples:

- Child welfare
- Taxation
- Gaming
- Law enforcement

# FEDERAL CONSULTATION PRACTICES

Fundamental Principles: protect and promote tribal sovereignty, self-determination and self-governance

Triggered when agencies act on “Policies that have tribal implications”

- regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Agency policies should grant tribes administrative flexibility, ability to set own standards for implementing programs, consult on federal standards that should apply to tribes

Federal agencies should implement specific consultation procedures – independent agencies encouraged to follow



# STATE CONSULTATION PRACTICES — EXAMPLES

New Mexico

California

Minnesota

# NEW MEXICO TRIBAL CONSULTATION

Governor Bill Richardson –

- 2003: Statement of Policy and Process – signed by Governor and Pueblos/Tribes
- 2005: Issued Executive Order 2005-004 “Statewide Adoption of Tribal Consultation Plans” direction state agencies to adopt consultation plans that address agency interaction with Pueblos and Tribes

State Tribal Collaboration Act, NMSA 11-18-1 (2009)

Department of Tribal Affairs (Cabinet Level) – responsible for oversight and implementation

# NM STATE TRIBAL COLLABORATION ACT

Every state agency shall develop and implement a policy that:

- \* promotes effective communication and collaboration between the state agency and Indian nations, tribes or pueblos;
- \* promotes positive government-to-government relations between the state and Indian nations, tribes or pueblos;
- \* promotes cultural competency in providing effective services to American Indians or Alaska Natives; and
- \* establishes a method for notifying employees of the state agency of the provisions of the State-Tribal Collaboration Act and the policy that the state agency adopts pursuant to this section.

A state agency shall make a reasonable effort to collaborate with Indian nations, tribes or pueblos in the development and implementation of policies, agreements and programs of the state agency that directly affect American Indians or Alaska Natives.

Every state agency shall designate a tribal liaison

Conduct an annual summit with Pueblos and Tribes

Required training and annual report to Department of Indian Affairs

# NEW MEXICO — ENERGY MINERALS DEPARTMENT

## Key Principles:

- Recognize and respect tribal sovereignty
- Promote government to government relations
- Establish partnership and coordination
- Promote mutual resolution
- Utilize informal communications
- Cultural competency
- Confidentiality

<https://www.iad.nm.gov/wp-content/uploads/2019/11/EMNRD-Policy.pdf>

# CALIFORNIA TRIBAL CONSULTATION

## Governor Brown and Governor Newsom Executive Orders

- B-10-11 (Brown) – “every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.”
- N-15-19 (Newsom)

## California Environmental Quality Act (AB 52)

### Office of Tribal Affairs (Secretary)

- Oversight, implementation of government to government policies

### Applicable to relevant energy agencies

- Natural Resources
- California Energy Commission
- California Public Utility Commission

# CA TRIBAL CONSULTATION - CPUC

## General Principles:

- \* Provide information about policies, technical assistance and grants
- \* Develop intergovernmental cooperation with tribes
- \* Consult on the development of policies
- \* Provide information on hearings, proceedings and meetings
- \* Legislative agenda that promotes health, safety and welfare of tribal communities
- \* Improve relationships

<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/bco/tribal/tribal-consultation-policy-approved.pdf>

# CA TRIBAL CONSULTATION — CEC

Actions that may require tribal consultation:

- \* regulations, rules, policies
- \* programs
- \* local, regional, statewide planning efforts
- \* environmental reviews
- \* power plant siting and compliance activities

Creates tribal liaison

Outlines process for consultation

Requires staff training

<https://www.energy.ca.gov/sites/default/files/2024-03/CEC-130-2024-001.pdf>

# CEC SPECIAL PROCEEDING — TRIBAL ENERGY SOVEREIGNTY

Opened a special proceeding (Docket # 25-OIIP-01) Order Instituting Informational Proceeding on Tribal Energy Sovereignty and Tribal Affairs

The OIIP will support gathering information, including for the following:

- Tribal consultation
- Tribal energy sovereignty
- Tribal cultural resource considerations regarding clean energy development
- Best practices for tribal energy grants, tribal energy equity indicators, and engaging with tribes on energy projects
- Tribal energy economy including tribal enterprise and workforce development.

This OIIP will inform CEC's tribal affairs program, including revisions to CEC's Tribal Consultation Policy, development of a CEC tribal energy sovereignty policy, best practices, and more.

# MINNESOTA TRIBAL CONSULTATION

Legislation – Minn. Stat. § 10.65 – Government to Government Relationship with Tribal Governments (2025)

Established Tribal Advocacy Council on Energy (MN Department of Commerce) (2024)

MN PUC Tribal Consultation Policy (2019)

# MN STATUTORY REQUIREMENTS

Duty to consult when tribal government implications:

“rules, legislative proposals, policy statements, or other actions that have substantial direct effects on one or more Minnesota Tribal governments, or on the distribution of power and responsibilities between the state and Minnesota Tribal government”

MN Agency Consultation Requirements:

- Develop consultation policy: when, where, how, who
- Conduct annual consultation
- Appoint tribal liaison
- Require employee consultation training

# MN PUC TRIBAL CONSULTATION POLICY

## General policies:

- \* recognize unique legal relationship with tribes
- \* recognize inherent sovereignty authority of tribes over members and territories
- \* Engage in meaningful and timely consultation, while acknowledging quasi-judicial actions and legal limitations (such as ex parte communications)
- \* Conduct annual consultation with tribes
- \* Allows for specific issue consultation

Establish a consultation process

Improve engagement with tribes in disputed matters before the commission

Establish a tribal liaison, roles for commissioners and staff

[https://mn.gov/puc/assets/Tribal%20Consultation\\_2024\\_Final%20with%20Signatures\\_tcm14-640720.pdf](https://mn.gov/puc/assets/Tribal%20Consultation_2024_Final%20with%20Signatures_tcm14-640720.pdf)

# MAJOR BENEFITS AND CONSIDERATIONS

Build on existing relationships

Model other co-regulatory mechanisms: health care, law enforcement, gaming

Promote cooperation and coordination rather than conflict and confusion

Engagement opportunities: training, cultural awareness, relationship building

# Case Studies and Discussion

---





- Best practices (Stowbridge 2024)
  - Empower advocates
  - Create an interorganizational team
  - Look for recurring opportunities for collaboration
  - Assert and respect sovereignty
  - Honor the connections between people and the land
  - Be persistent

## Tribal-State Collaboration on Sustainability and Solar Development

A Case Study of the Leech Lake Band of Ojibwe



By Eugene Stowbridge  
Sustainability Coordinator,  
Leech Lake Band of Ojibwe



<https://www.cesa.org/resource-library/resource/tribal-state-collaboration-solar-development-case-study/>

# Next Steps and Resources for Tribes

---

# NLR's State, Local, & Tribal (SLT) Government Program

Supporting Energy Solutions Across Multiple Communities

States >



Local Governments  
and  
Communities >



Tribes >



Islands and  
Territories >



# Project website

- [State-Tribal Energy Collaboration website](#)
  - Recorded webinars
    - Energizing Together: Building State and Tribal Collaboration
    - State-Tribal Collaboration on Energy: Examples from Western States
  - Workshop materials
  - Fact sheets
    - State-Tribal Energy Collaboration 101
    - Tribal Right to Create Laws
    - State Role in Legal Framework
    - How Tribal Entities Govern Business and Commerce
    - Types of Tribal Land
    - Tribal Utility Programs

# Resources

- Curating additional external resources. For example:
  - [Pathways to Trust: A Learning Journey Towards Equitable Tribal Partnerships](#), Alliance for Tribal Clean Energy
    - Training program focused on legal and political literacy, historical awareness, cultural competency, and partnership skills
    - Preferred Provider Program
      - Each applicant is reviewed by technical experts using a rigorous evaluation framework and must complete Pathways to Trust: A Learning Journey Towards Equitable Tribal Partnerships<sup>SM</sup>, the Alliance’s cultural awareness curriculum developed by Indigenous faculty. Providers are then designated as:
      - Preferred Providers — Companies new to Tribal work that meet Alliance standards and complete required training
      - Provisional Providers — Companies with verified, successful, culturally respectful experience collaborating with Tribal Nations

# Upcoming Webinar

## **State-Tribal Collaboration on Energy: Government-to-Government Best Practices**

Feb. 24, 11 a.m.–12:30 p.m. MT

On behalf of the U.S. Department of Energy's Office of Policy, NLR is hosting a webinar focused on state-Tribal collaboration through government-to-government policies. This webinar will feature presentations by Tribal Energy Consultant Pilar Thomas, Minnesota Public Utility Commissioner Katie Sieben, Minnesota Public Utility Commission Tribal Liaison Angie McKinley, and California Public Utilities Commissioner Darcie Houck. Join us to learn more about best practices for government-to-government relations and hear from states implementing Tribal consultation policies.

# Office of Indian Energy Policy and Programs

- Technical Assistance
  - To provide a tangible product or specific deliverable designed to help move a project forward
  - To support Tribes' self-determination and energy sovereignty through assistance to identify and support bankable structures for energy projects through legal technical assistance
  - To assist Tribes in strengthening their “in-house” capacity to independently lead, advise, and implement such structures in the future.
- [Office of Indian Energy Newsletter](#)

# Acknowledgements

The presenters would like to thank the following individuals and organizations for their input:

- Pilar Thomas, lawyer and member of the Pascua Yaqui Tribe of Arizona
- Margie Schiff, Energy Attorney
- Kevin Blaser, Eagle Rapids Asset Management and Vice President of Business Development for Colusa Indian Energy
- Alliance for Tribal Clean Energy
- Midwest Tribal Energy Resources Association
- Tribal Energy Alternatives (part of Grid Energy Alternatives)
- Baker Tilly
- Heather Rhoads, eFormative Options



# Thank you!

This work was supported by National Laboratory of the Rockies for the U.S. Department of Energy (DOE), operated under Contract No. DE-AC36-08GO28308. Funding provided by Department of Energy Office of Policy. The views expressed in the article do not necessarily represent the views of the DOE or the U.S. Government. The U.S. Government retains and the publisher, by accepting the article for publication, acknowledges that the U.S. Government retains a nonexclusive, paid-up, irrevocable, worldwide license to publish or reproduce the published form of this work, or allow others to do so, for U.S. Government purposes.

**NATIONAL  
LABORATORY  
OF THE ROCKIES**