Addressing structural barriers

Funding: University of Minnesota Grand Challenges Research Program

What makes state-tribal consultation meaningful?

Insights gained from interviews with tribal and state leaders

2020

Manoomin (Ojibwe), psi η, wild rice (English) or Zizania palustris is an aquatic grass with significant cultural and spiritual value to tribal nations in the Great Lakes region. To the Ojibwe people, it is a sacred food, medicine, and gift from the Creator. Because Manoomin is highly sensitive to environmental stressors, the Minnesota Pollution Control Agency (MPCA) established the 10mg/L wild rice sulfate standard in 1973. The standard went unenforced for years until the U.S. Environmental Protection Agency (EPA) mandated the state to begin enforcing it in 2011. From 2001-2017, the MPCA led a rule-making process to review and amend the wild rice sulfate standard. This process included researching wild rice, engaging a wild rice advisory task force, consulting with tribes, hosting public hearings, and issuing a new equation-based rule which was ultimately disapprover by the Chief Administrative Law Judge. In 2018, University of Minnesota and tribal researchers collaborated to interview four MPCA consultation participants and seven tribal participants-representing the Minnesota Chippewa Tribe, Grand Portage, Lac du Flambeau, and Fond du Lac bands of Lake Superior Chippewa—regarding their views on the sulfate standard consultation process. Insights gained from the interviews are intended to improve consultation practices and support more equitable and respectfully, government to-government environmental decision-making.

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A foundation of respectful relations

As sovereign nations, federally recognized American Indian and Alaska Native tribal nations maintain government-to-government relations with the U.S. federal and individual state governments as defined in treaties and the U.S. Constitution. Consultation between U.S. government agencies and tribal nations is required for all issues within tribal jurisdictions or with tribal implications, including natural resources management in ceded territories. In Minnesota, Governors Dayton and Walz have each established a consultation requirement for state agencies via Executive Orders in 2013 and 2019, respectively. Thus state policies that impact Manoomin and Manoomin waters, such as the sulfate pollution standard for wild rice, require coordination and consultation between state agencies and tribal nations.

Recognition of inherent tribal sovereignty

What is tribal consultation?

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An engaged, informed, respectful process

Engaging with tribes immediately in the consultation process

Sending staff who have thorough understanding of the relevant issues, including legal, technical, cultural, and traditional ecological knowledge (TEK)

Committing to open, respectful communication and behavior

Preparing fair and flexible agendas that allow for inclusive information exchange and opportunities for conversation

Maximizing location, timing, and technological access for all invited participants

Including triply hosted meetings

Creating and sharing clear documentation, including thorough meeting notes and written statements of intentions

Ensuring deliberate follow up when there are misunderstandings

A commitment to equal decision-making power

Avoiding a superficial “check-the-box” approach

Engaging, even when there are conflicting views

Exchanging information and perspectives on equal footing

Using tribal knowledge, resources, and research in decision-making

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