

STEWARDING NATIVE LANDS PRESENTS


**TRIBAL CO-MANAGEMENT
LEGISLATION**

WEBINAR MANAGEMENT

All attendees will be muted throughout this webinar.



If you have questions, please type them in the question box. They will be addressed during the Questions section.



Audio Settings ^

Chat ^

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Q&A

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This webinar is being recorded.

The background features a dark teal color with a stylized, low-poly graphic of a person's profile in a lighter shade of teal. The person's hand is raised, with fingers spread, as if reaching out or gesturing. The text is overlaid on the left side of the image.

First Nations' mission is to **uplift**
and **sustain** the lifeways and
economies of Native
communities through **advocacy**,
financial support, and
knowledge sharing.

The Mission of the Stewarding Native Lands program is to **invest in** and **center** Native peoples in the **stewardship** of their lands for a generous future.



SNL INITIATIVES



ENVIRONMENTAL SOVEREIGNTY & JUSTICE

Protecting communities and lands from harmful practices, projects, and policies



STEWARDSHIP

Sustainably managing and restoring lands for our communities and future generations



CLIMATE

Addressing ongoing and anticipated impacts of climate change to preserve lands and cultural lifeways



COMMUNITY PATHWAYS

Upholding traditional knowledge systems



WOVEN LANDS

Creating new models, investments, and other tools to secure and expand Native ownership and stewardship over tribal homelands

PRESENTERS

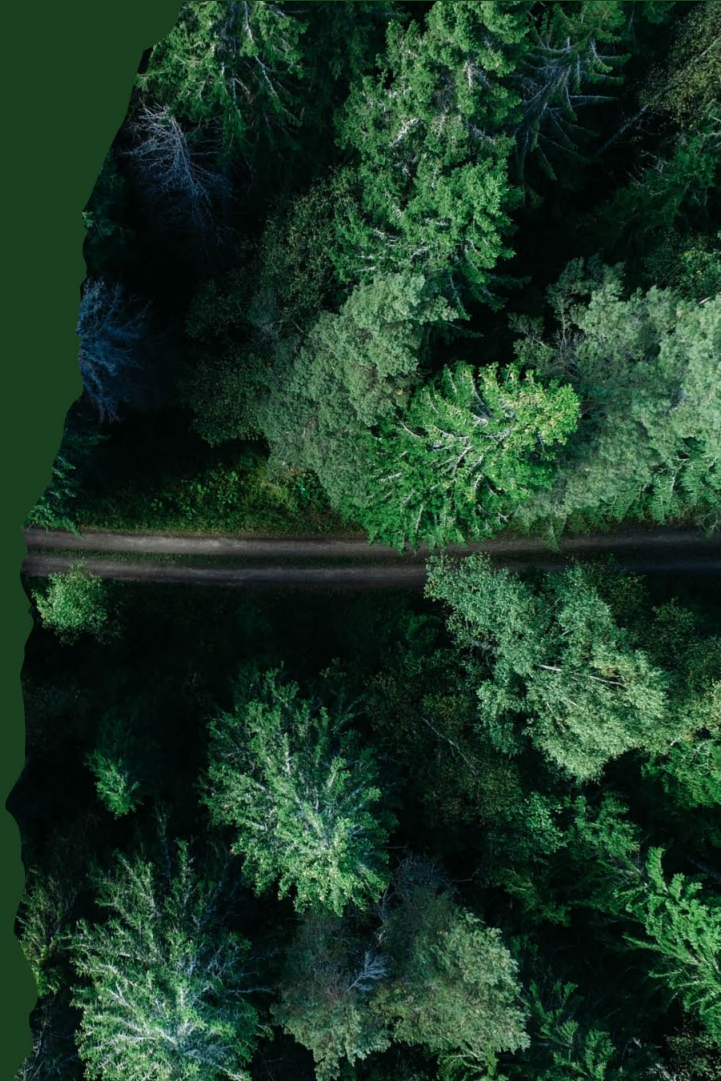


Sara Clark
Partner at Shute, Mihaly,
and Weinberger, LLP

FIRST NATIONS 
DEVELOPMENT INSTITUTE

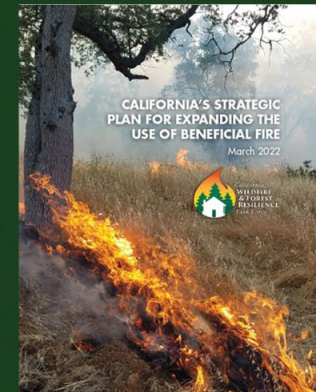
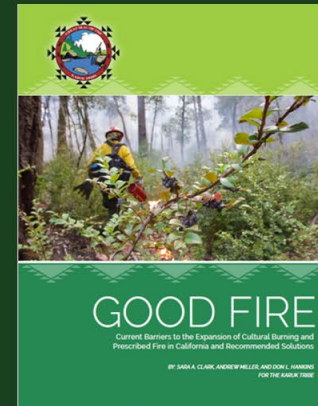
Tribal Co-Management Legislation

Sara A. Clark

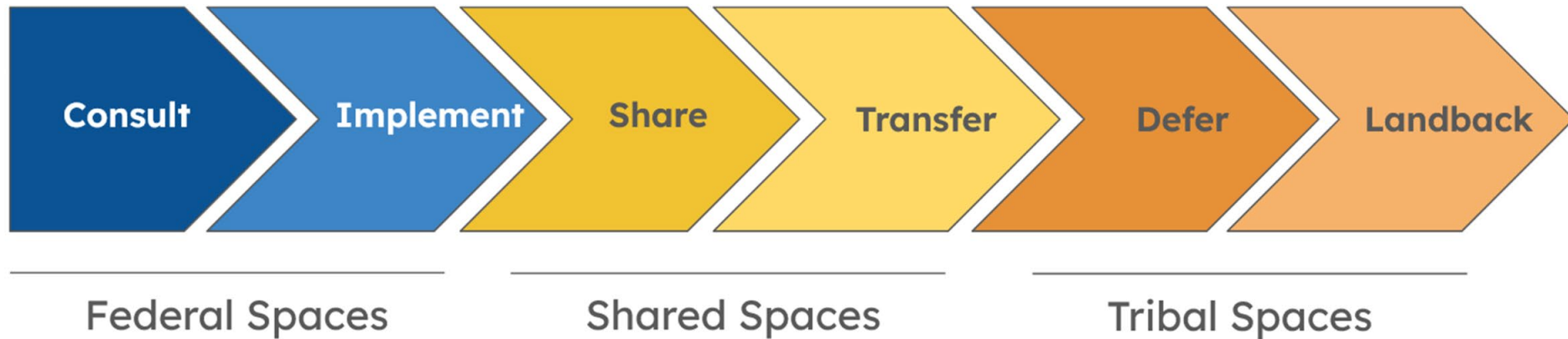


My Background

- Assist prescribed burn associations, Tribes, non-profits, and local agencies implement prescribed fire and cultural burning projects
- Helped draft multiple laws on prescribed fire liability, cultural burning and co-management
- Advise Tribes on protection of cultural resources, especially on federally administered lands and public lands
- Author of Good Fire I and II
- Subject Matter Expert for Biden-Harris Wildland Fire Mitigation and Management Commission



Sharing Responsibility: A Spectrum of Approaches



- **Implement:** Tribe carries out project decided on by federal agency (e.g., most co-stewardship)
- **Share:** Tribe and federal agency share decision-making authority (e.g., collaborative decision-making processes)
- **Transfer:** Federal agency transfers authority to Tribe to carry out program, function, service, activity under federal law (e.g., 638 contract/compact)
- **Defer:** Federal agency defers to Tribal sovereign authority (e.g., ceremonial or cultural burning)

Biden Administration Reviews

Order No. 3403: Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters

DOI, Current Land, Water, and Wildlife Authorities that Can Support Tribal Stewardship and Co-Stewardship (2022)

USDA, Office of General Counsel Legal Review (2022)



Order No. 3403

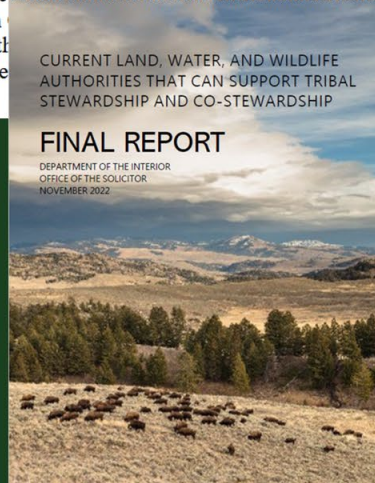
Subject: Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters

Section 1. Purpose. This Secretary's Order is issued by the Secretary of Agriculture and the Secretary of the Interior (Secretaries) to ensure that the Department of Agriculture and the Department of the Interior (Departments) and their component Bureaus and Offices are managing Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes including the Native Hawaiian people. This Order fulfills the trust responsibility of the United States to the citizens.

CURRENT LAND, WATER, AND WILDLIFE
AUTHORITIES THAT CAN SUPPORT TRIBAL
STEWARDSHIP AND CO-STEWARDSHIP

FINAL REPORT

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
NOVEMBER 2022



United States
Department of
Agriculture
Office of the
General
Counsel
Washington,
D.C.
20250-1405

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Wildland Fire Mitigation and Management Commission (2023)

Recommendation 30

Congress should provide the U.S. Department of Agriculture stand-alone authorities to enter into co-management agreements with Tribes that would allow the Forest Service to share, defer or transfer decision-making authority with or to a Tribe or Tribes for management of Forest Service programs or activities.

USDA Framing Paper

June 2024

USDA TRIBAL CONSULTATION ON SELF-DETERMINATION IN FORESTRY – FRAMING PAPER

APPENDIX A:

Forest Service Tribal Self-Determination Authority

***Tribal Consultation Discussion Draft ***

Forest Service Tribal Self-determination Authority:

- (a) **PURPOSE.** – The purpose of this section is to expand authority for the Secretary, through the Forest Service, to more fully integrate Indian Tribes, ANCs, and Tribal Organizations into the management of the lands of the National Forest System by-
- (1) incorporating indigenous knowledge into Forest Service land management, with appropriate safeguards for data sovereignty and non-appropriation;
 - (2) entering into agreements, including contracts and co-management agreements, with Indian Tribes, ANCs, and Tribal Organizations with respect to any Forest Service activities, including programs, functions, services and activities;
 - (3) providing funding, including advanced funding, directly to Indian Tribes and Tribal Organizations to support agreements authorized by this section; and
 - (4) ensuring that actions taken by the Secretary, through the Forest Service, under this section are conducted after consultation with the Indian Tribes regarding when and how to develop agreements with Indian Tribes and Tribal Organization under this section.

Tribal Co-Management and Self Determination in Forestry Act (Huffman) H.R.3444 — 119th Congress (2025–2026)

- Secretary may enter into agreements with Tribe/Tribal organizations:
 - Can use agreement, 638 contract (compact?), or other authority
 - For activities, services, or functions, including management decisions
 - planning, management, research, restoration, heritage programs, rec
 - On USFS lands
 - Consistent with existing plans and applicable laws
 - No “non-delegable functions”
- Authorizes payments (including \$50M in new dollars to be appropriated)
- At least five agreements in first 4 years
- Tort Claims Act coverage

Tribal Co-Management and Self Determination in Forestry Act (Huffman) H.R.3444 — 119th Congress (2025-2026)

- “Defer to” language:
 - Nothing in this bill affects the authority of the Secretary (as in effect on the date of the enactment of this Act) to acting through the Chief of the Forest Service, enter into agreements to enable or accommodate Tribal activities on lands administered by the Forest Service, including the exercise of Tribal Treaty, reserved, retained, or other similar rights.
- Requires each Federal land management agency to develop a “Tribal Co-Management Plan” (if one does not already exist)
- Requires training re indigenous knowledge, Tribal history, & trust relationship

<https://www.congress.gov/bill/119th-congress/house-bill/3444/text>

Fostering Opportunities to Restore Ecosystems through Sound Tribal Stewardship Act (FORESTS Act, H.R. ___, Hurd)

- Designation of federally administered lands as “Indian Forest Land” for purposes of planning and management under National Indian Forest Resource Management Act
- Modifications to the Tribal Forest Protection Act re: timing
- Biochar demonstration projects
- Cultural burning demonstration projects

<https://www.congress.gov/event/119th-congress/house-event/118223>

Areas of Continued Work

- Coordination and efficiency with any NIRFMA expansion
- USDA access to all 638 authorities found in Title 4 of ISDEAA
- Expanded, ITARA-like authorities off trust/reservation land
- Cultural burning agreements
- FOIA and confidentiality issues
- Applicable lands
- Definitions of Indian Tribe
- Funding....

**Questions? Want
Updates?
clark@smwlaw.com**

QUESTIONS

A stylized illustration of a person's profile in shades of teal and grey. The person is facing right, with their mouth open as if speaking. A large, light grey speech bubble is positioned in front of their mouth. The background is a dark teal color. The word "QUESTIONS" is written in a bold, orange, sans-serif font across the upper part of the image.

UPCOMING WEBINARS

Register for the next two webinars in the Tribal Co-Stewardship and Co-Management Webinar Series:

Intertribal Coalitions

Wednesday, September 10, 2025, at 1 pm Mountain Time.

Indigenous Stewardship of National Forests Case Study Report

Tuesday, September 16, 2025, at 1 pm Mountain Time.

Links to the webinars' registration pages can be found online in First Nations' Knowledge Center.

COMMUNICATIONS

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THANK YOU

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