

Federal & Tribal Litigation Regional Summit: Defending & Strengthening Tribal Homelands: Climate Adaptation, Resilience and Environmental Justice

Department of Interior, Regional Solicitor's Office, Twin Cities, MN

September 26 & 27, 2023

AGENDA

DAY ONE:

8:30 – 9:00 REGISTRATION

9:00 – 9:30 INTRODUCTIONS AND OVERVIEW: DEFENDING AND STRENGTHENING TRIBAL HOMELANDS – Environment & Natural Resources Division, Assistant Attorney General Todd Kim

The Department of Justice's Comprehensive Environmental Justice Enforcement Strategy ("CEJES") considers the impacts to tribal water, treaty, and land resources to be a significant part of Tribal environmental justice. AAG Kim's remarks will set the stage for participants of the overarching concepts and litigations where DOJ, federal agencies and Tribal governments currently work together. The increasing challenges of climate change and how they relate to these litigations will begin to be identified.

9:30 – 10:30 ENVIRONMENTAL JUSTICE & TRIBAL HOMELANDS

The Department of Justice (DOJ) engages in litigation and negotiation of settlements related to treaty resource protection, Tribal lands, Tribal jurisdiction/sovereignty and Tribal water rights. This session will introduce and explore the Tribal environmental justice concepts in the CEJES in greater depth and discuss the recently released Executive Order 14096 as it relates to Tribal governments and indigenous communities.

- Presenter/Panel – TBD

10:30 – 10:45 BREAK

10:45 – 12:00 EXERCISING TREATY RIGHTS: BARRIERS & POTENTIAL SOLUTIONS AND PLENARY SESSION

- *Presenter – Daron Carreiro, Trial Attorney, Indian Resources Section, Environment & Natural Resource Division, U.S. Department of Justice*

Tribal members and governments sometimes face barriers to the full exercise of Treaty rights. This presentation will focus on some of these barriers including: access to places to hunt, fish and gather; threats and harassment; environmental

degradation of treaty guaranteed and/or culturally important resources; species and habitat loss; and any unique considerations to the exercise of hunting and gathering rights. Following the presentation, a facilitated discussion will further explore how the federal government can improve outcomes in litigations and settlements.

12:00 – 1:00 LUNCH

1:00 – 2:00 JURISDICTION: CHALLENGES POST-CASTRO HUERTA

- Presenter – *Daron Carreiro, Trial Attorney, Indian Resources Section, Environment & Natural Resource Division, U.S. Department of Justice*

As Tribes seek to implement regulations for the health, safety and welfare of their members, jurisdictional challenges may arise. This presentation and discussion will focus on civil jurisdiction over non-Indians as well as challenges to tribal jurisdiction from state and local governments.

2:00 – 3:00 TRESPASS

- Presenter – *Cody McBride, Indian Resources Section, Environment & Natural Resources Division, U.S. Department of Justice*

Tribal governments may face encroachments onto tribal land by individuals or other governments. This presentation will discuss the legal mechanisms for addressing trespass.

3:00 – 3:15 BREAK

3:15 – 4:15 BREAKOUT SESSIONS

Federal and Tribal participants break into separate groups to address the questions presented by *EXERCISING TREATY RIGHTS* panel. Breakout sessions will discuss issues identified in plenary session that followed the *EXERCISING TREATY RIGHTS* panel. Groups will consider possible solutions to issues raised by the panelists and identify barriers to solutions. Groups should consider what further information is needed and what solutions might be available in the short and long term.

4:15 -4:30 RECONVENE TO SHARE PRELIMINARY IDEAS

DAY TWO:

9:00 – 10:00 CRIMINAL ENFORCEMENT & INTELLIGENCE TRENDS TO PROTECT TRIBAL RESOURCES AND HOMELANDS

Presentation by the Federal Bureau of Investigation (FBI) on prior and anticipated future criminal threats to Tribal land, water and other critical resources and infrastructure.

10:00 – 11:00 ENVIRONMENTAL CRIMES 101

- Presenter - TBD

Introduction to the Environmental Crimes Section, Environment & Natural Resources Division, U.S. Department of Justice; overview of criminal provisions of pollution and wildlife statutes; and discussion of the principles of federal prosecution, which provide guidance for determining when criminal prosecution of a given case may be warranted.

11:00 – 11:15 BREAK

11:15 – 12:15 CLIMATE ADAPTATION: CHALLENGES & STRATEGIES

- Panel/Presenter - TBD

Many Tribal governments have enacted climate change adaptation plans. This panel will discuss how Tribal governments have developed climate adaptation plans. The session will further explore how the federal government can support these plans through both litigation and settlement. The presentation will be followed by a facilitated session to identify questions raised by the panel presentation to be considered by federal and Tribal government participants in the breakout session later in the day.

12:15 – 1:00 LUNCH

1:00 – 2:30 CLIMATE ADAPTATION & RESILIENCE BREAKOUTS

Federal and Tribal participants break into separate groups to address the questions presented by *CLIMATE ADAPTATION: CHALLENGES & STRATEGIES* panel. Breakout sessions will discuss issues identified in plenary session that followed *CLIMATE ADAPTATION: CHALLENGES & STRATEGIES* panel. Groups will consider possible solutions to issues raised by panelists and identify barriers to solutions. Groups should consider what further information is needed and what solutions might be available in the short and long term.

2:30 – 2:45 BREAK

2:45– 4:00 RECONVENE FOR PLENARY SESSION

Groups come back together and share potential recommendations for the Department of Justice and other federal agencies to: 1) improve litigation and

settlements in cases involving the exercise of Treaty rights and other cases, and
2) support implementation of Tribal climate adaptation and resilience plans.

4:00 pm

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