

Meaningful Consultation: we're still talking about this?

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Maritime Law & Tribal Rights?

- http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/UCH_Law_Study_OLE.pdf
- Need Tribal Cultural Resources law study

OCS Study
BOEM 2014-005

Underwater Cultural Heritage Law Study

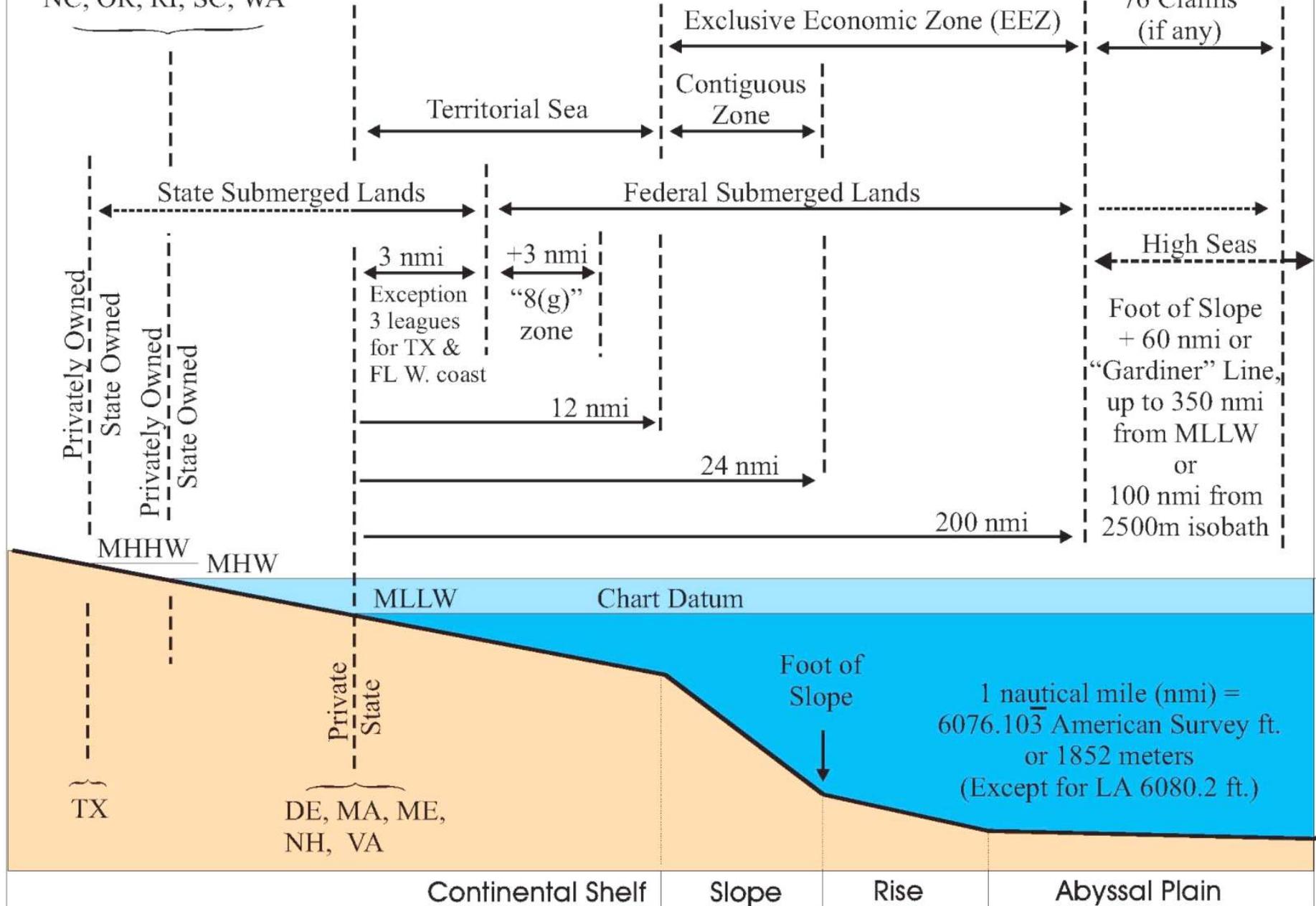


BOEM
BUREAU OF OCEAN ENERGY MANAGEMENT

U.S. Department of the Interior
Bureau of Ocean Energy Management
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Interagency Agreement
U.S. Department of Commerce
National Oceanic and
Atmospheric Administration

AL, AK, CA, CT, FL, GA,
LA, MD, MS, NJ, NY,
NC, OR, RI, SC, WA



Consultation & Cultural Landscapes

- EO 13175, 2009 Memo, 2021 Memo
- Agency policies, Tribal policies
- NHPA: Section 106 & National Register
- Tribal Consultation: Best Practices in Historic Preservation (NATHPO 2005)
- Native American Traditional Cultural Landscapes Action Plan (ACHP 2011)
- Early Coordination with Indian Tribes During Pre-Application Processes: A Handbook (ACHP 2019)

Tribal Cultural Landscapes

- Guiding principles of self-determination
- Building relationships
- Integrated resource management at landscape scale
- Natural resources with cultural value
- Intangible heritage values

OCS Study
BOEM 2015-047

A Guidance Document for Characterizing Tribal Cultural Landscapes

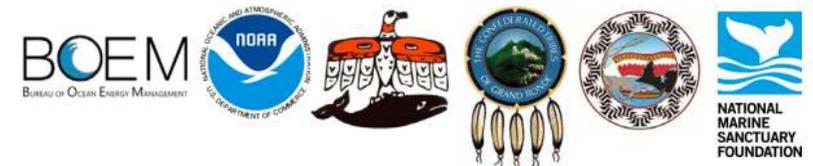
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Prepared under BOEM Interagency Agreement M12PG00035
by

Bureau of Ocean Energy Management, Pacific OCS Region
National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries
Makah Tribe
Confederated Tribes of Grand Ronde Community of Oregon
Yurok Tribe
National Marine Sanctuary Foundation

November 30, 2015



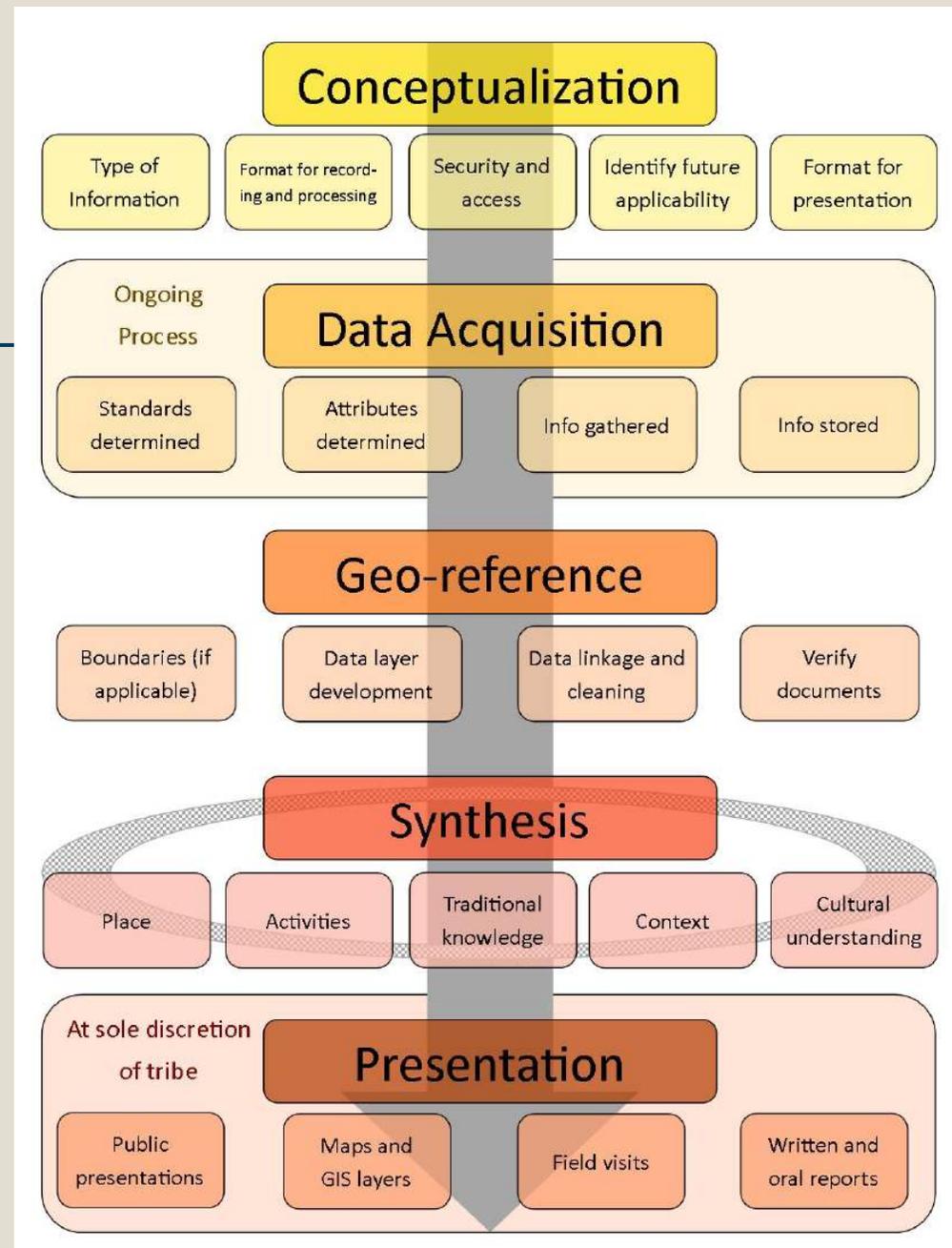
TCL for Agencies & Applicants

- Guidelines for Tribal Pre-consultation and engagement:
 - Do your homework
 - Project planning
 - Consultation & collaboration



TCL for Tribes

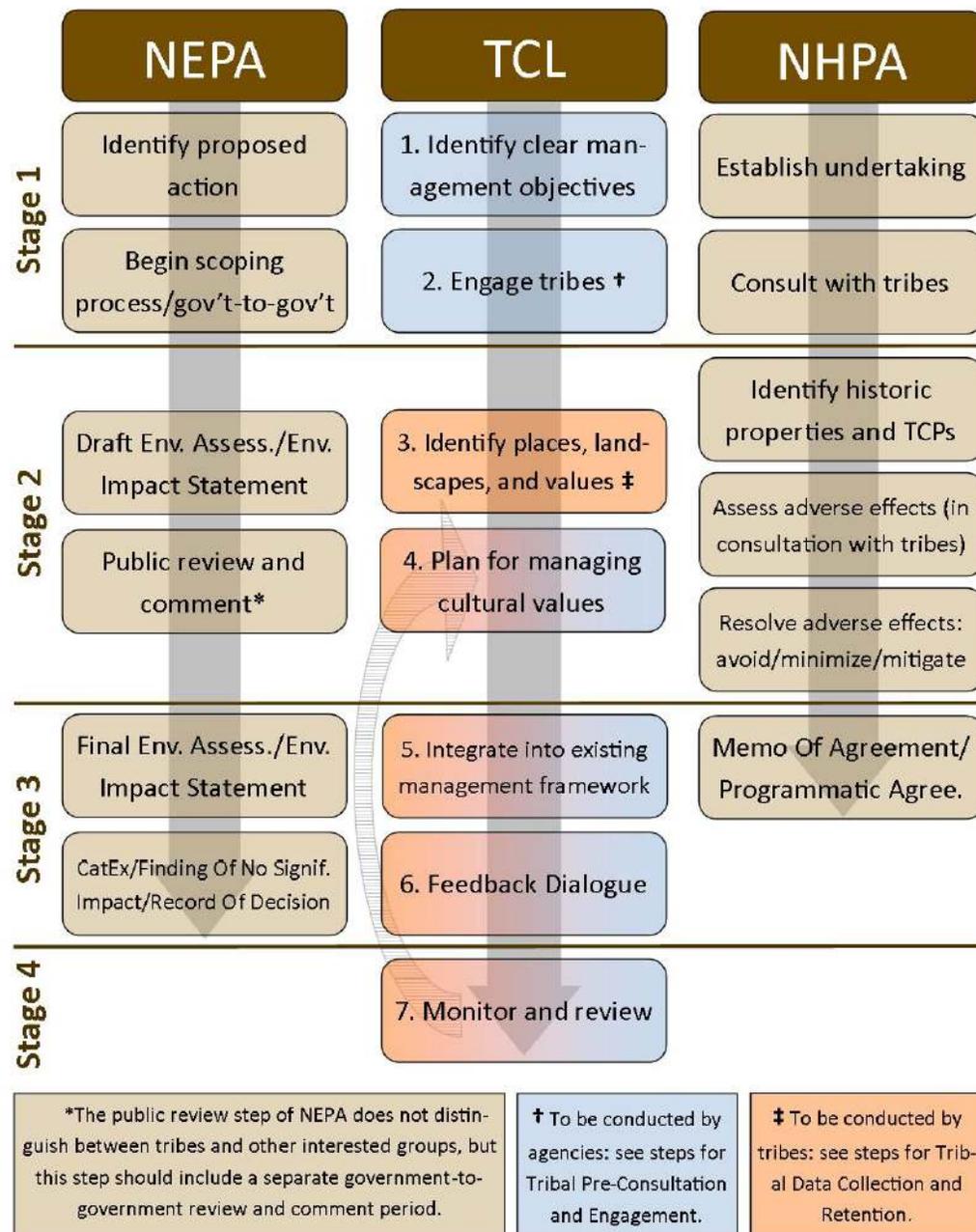
- Template for Tribal Data Collection



TCL Process

Process for Application

- Plan for managing cultural values
- Repeat as needed!



Characterizing Tribal Cultural Landscapes

Volume I: Project Framework

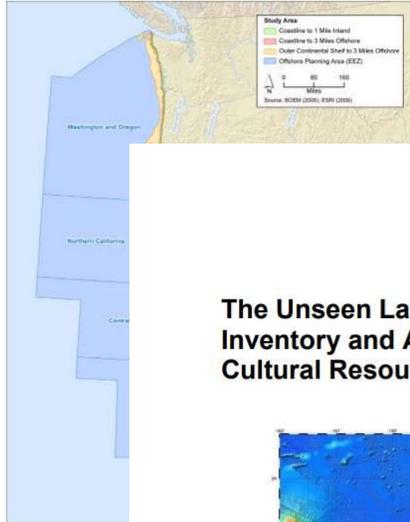


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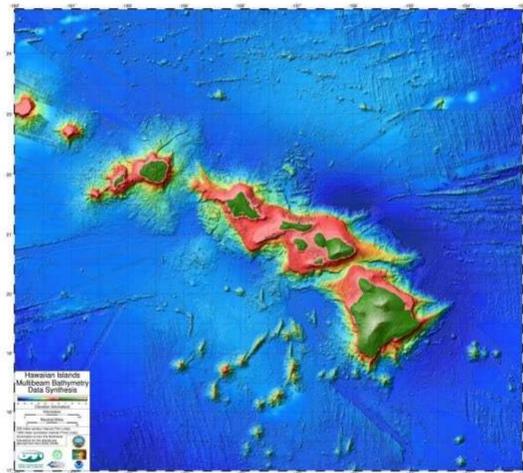
Key Points About (TCPs)	Clarifying Details
<p>Must have a defined boundary: traditional cultural significance is a layer of significance for a National Register property type (buildings, structures, sites, historic districts, objects).</p>	<p>Boundary requirement is flexible, as seen in the 2010 precedent of Nantucket Sound as a National Register-eligible TCP (as a bounded site) contributing to a larger district with undetermined boundaries.</p>
<p>Capability to convey geographically isolated designations whose significance is actually interconnected.</p>	<p>Discontiguous districts may incorporate numerous discrete bounded sites that are related to each other, but not adjoining. However, these tend to have an archaeological signature; discontiguous sites that are related by an intangible factor with no archaeological signature can be difficult to characterize using National Register criteria.</p>
<p>Must be important in maintaining the continuing cultural identity of a community.</p>	<p>It can be difficult for indigenous communities who have been displaced from their ancestral territory to demonstrate to an evaluator the importance of a place in continuing their cultural identity. It can also be difficult for agencies to recognize the continuity of the relationship.</p>
<p>The intangible beliefs or practices associated with a TCP are important in defining its significance. The relationship between the property and the beliefs or practices associated with it should be carefully considered, since it is the beliefs and practices that may give the property its significance and make it eligible for inclusion in the National Register (Parker and King 1990).</p>	<p>A property must not only be shown to be significant under the National Register criteria, but it also must have integrity. The National Register recognizes seven aspects that, in various combinations, define integrity. Two of these aspects are intangible: feeling and association. However, their retention alone is never sufficient to support eligibility of a property for the National Register (Andrus 2002).</p>
<p>Can include places important to non-indigenous communities.</p>	<p>Tribal Cultural Landscapes refer only to places important to tribal and indigenous communities, who have unique status and relationships with the Federal Government,⁵ and/or environmental and public health concerns that may be different from other groups or from the general public.</p>

Inventory and Analysis of Coastal and Submerged Archaeological Site Occurrence on the Pacific Outer Continental Shelf



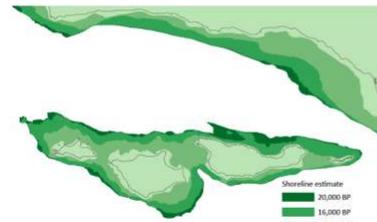
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The Unseen Landscape: Inventory and Assessment of Submerged Cultural Resources in Hawai'i



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BOEM Archaeological and Biological Assessment of Submerged Landforms



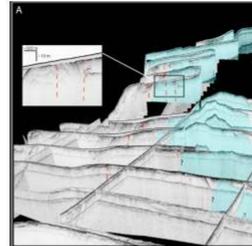
Purpose and Goals

Off the Pacific Coast of North America, rising postglacial sea levels have submerged a vast paleolandscape that almost certainly contains inundated terrestrial archaeological resources. It is likely that many of these areas are also associated now with important marine biological features. Few submerged sites have been identified and little ground-truthing has been done. This study will synthesize specific geological and geophysical data from offshore southern California and central Oregon, conduct field investigations, develop conceptual models, and determine the spatial extent of associated with ecological resources.

OCS Study
BOEM 2017-021

BOEM has the responsibility to evaluate and consider multiple laws to consider the impacts of Outer Continental Shelf resources. The project will further improve identification of the continental shelf by evaluating the geophysical survey data and biological resources.

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vided benthic community, and explore the spatial extent of food web structure.

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Developing Protocols for Reconstructing Submerged Paleocultural Landscapes and Identifying Ancient Native American Archaeological Sites in Submerged Environments:

OCS Study
BOEM 2017-023

A Guidance Document for Characterizing Native Hawaiian Cultural Landscapes



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August 18, 2017

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Doing Better

- Obligations under 106 vs. meaningful & robust G2G.
- Self-determined and multiple ways of knowing.
- TCL is a definition, a philosophy, and a process. Can shift paradigm if it's actually done.
- DOI Secretarial Order 3397 (March 3, 2021) includes TEK.

A Seat at the Table

- Grown-up table – complete with meal and utensils.
- Capacity of THPOs and tribes to do this work.
- NATHPO training and events:
 - NPS THPO Application Workshops
 - THPO Toolkit Workshops
 - Congressional THPO/SHPO Sacred Sites Symposium
 - Renewable Energy Summit

Historic Preservation Fund Appropriations for Tribes

HPF Tribal Appropriation # THPOs Average Apportionment \$ (x1000)

