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Authors

Varney, Abigail

Nairn, Isobel

Clark, Sara A.

et al.

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Cultural Burning: *Under the Sovereign Authority of Tribes*

ABIGAIL VARNEY, ISOBEL NAIRN, SARA A. CLARK, BILL TRIPP, and
COLLEEN E. ROSSIER for the KARUK TRIBE

Cultural burning is separate and distinct from prescribed fire. Cultural burning involves the intentional application of fire to the land by Indigenous peoples to achieve cultural goals or objectives based in Tribal or Traditional Indigenous law. Each Tribe defines cultural burning for themselves as an exercise of their sovereignty.

Fire is still a regular part of life for many Indigenous peoples: people set fires and engage in burning with others to achieve outcomes for the greater good of local communities as well as the broader landscape. Benefits of burning include improving hunting, medicinal resources, basketry materials, food sources, and wildlife habitat; increasing streamflows; creating cool refugia for salmon; reducing fuel loading; and protecting homes, communities, and lives.

Both Western science and Indigenous Knowledge demonstrate that cultural burning has played a fundamental role in establishing and maintaining the fire-adapted and fire-dependent ecosystems that characterize the Western United States today. Many barriers, however, currently impede critically important Indigenous stewardship across landscapes and jurisdictions, including a lack of respect for and

understanding of Tribal sovereignty, self-determination, and related rights and responsibilities. These barriers have very real consequences, and in large part, have contributed to the wildfire crisis we are now experiencing today.

Sovereignty over stewardship of lands, waters, and natural resources within a Tribe's lands of territorial affiliation is a fundamental aspect of Tribal self-governance and self-determination. The right to engage in cultural burning and related Indigenous stewardship practices, among other rights, remains unextinguished and applies throughout a Tribe's lands of territorial affiliation, including on lands now also administered by public agencies.

Despite this and the critical importance of cultural burning to mitigate the risks of wildfire, many Tribes throughout California and the United States lack assured, unchallenged access to most of their lands of territorial affiliation. Without assured access and rights to steward, Tribes cannot complete the cultural burning and other Indigenous stewardship activities needed to restore resilience and forest health without risking citation, fines, or jail time.

Analisa Tripp of the Karuk Tribe conducting a cultural burn with a pitch stick. ALEX WATTS-TOBIN



Prescribed burn with cultural objectives led by the Karuk Tribe. COLLEEN ROSSIER



MOVING FROM CO-STEWARDSHIP TO CO-MANAGEMENT

Federal decision-making space	Consultation	Co-stewardship	Co-management	Tribal decision-making space
Federal agencies engage with Tribes as public stakeholders rather than sovereign nations or Indigenous rights holders.	Federal agencies recognize Tribes as sovereign nations by engaging in government-to-government consultation, but Tribes are not guaranteed any particular outcome or a part of the planning or implementation.	Federal agencies retain decision-making authority over the management of federal lands, but engage Tribes to oversee the implementation of specific federal land management actions. Tribes may also be involved in the planning process.	Involves the formal acknowledgment of Tribal authority and/or the delegation of management authority over programs or lands.	Tribes have sole or concurrent decision-making authority.



Indicates increasing respect for Tribal sovereignty

Improving opportunities for Tribal co-management would be a meaningful step in support of Tribal sovereignty. Tribal-federal partnership and collaboration can take many forms and involve varying levels of Tribal influence and authority over decision making. These are depicted in the graphic above, which shows federal decision-making space on the left and Tribal decision-making space on the right. Between these two ends is a continuum of increasing respect for Tribal sovereignty and the government-to-government relationship that should exist between two sovereigns. This is the continuum of consultation to co-stewardship to co-management.

Co-management, when properly carried out, involves mechanisms whereby federal agencies explicitly acknowledge Tribal decision-making authority or formally share, defer, or transfer decision-making authority to Tribes.

Cultural burning is only exercised under the sole and sovereign authority of Tribes and cultural fire practitioners, so co-management agreements between Tribes and the federal government can be carefully

structured to avoid inadvertently infringing on Tribal sovereignty or upon Tribal rights such as cultural burning.

Co-stewardship, however, is the concept currently promoted by the federal government, in which federal agencies retain full decision-making authority over the planning, administration, and management of lands within federal jurisdiction, but incorporate Tribal expertise and Indigenous Knowledge into their land/resource management planning and encourage Tribal implementation. This type of relationship is an improvement over solely federal decision-making space, but it is still often problematic, as it assumes that Tribes are subordinate to the federal government, rather than co-equal sovereigns. While co-management is preferred, if explicit co-management authorities are not available, federal agencies should still accommodate cultural burning on lands under federal jurisdiction, as a Tribal right, and create conditions conducive for Tribal cultural burning in collaboration with Tribes and Indigenous-led organizations.



For more information, please visit <https://karuktribeclimatechangeprojects.wordpress.com/good-fire/>.