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**UNITED STATES SENATE  
COMMITTEE ON INDIAN AFFAIRS**

**WILDFIRES AND FOREST MANAGEMENT  
MAY 14, 2014**

**INTRODUCTION**

Good morning Chairman Tester, Vice Chairman Barrasso, and Members of the Committee. Thank you for inviting the Department of Agriculture to provide testimony on our longstanding and productive partnerships with Indian Tribes and Tribal organizations as we responsibly manage shared resources, improve the health of our forests across boundary lines, support rural economies, and work together to make both public and Tribal lands more resilient.

**GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH INDIAN TRIBES**

Indian Tribes have a unique status established by the Constitution. The Forest Service and USDA are committed to a government-to-government relationship with federally recognized Indian Tribes. We recognize that American Indians and Alaska Natives were the original stewards of the lands that now comprise the National Forest System. In addition, for some National Forest System lands the Forest Service is responsible for fulfilling treaty obligations of the United States. In many cases, National Forest System land shares borders with Tribal land. As part of the government-to-government relationship, the Forest Service coordinates, collaborates and consults with Indian Tribes in the management of the National Forest System and the provision of Forest Service program services. Through this process, the Forest Service seeks to understand and identify areas for common management objectives, as well as to recognize differing landownership and management objectives. Although the agency and Tribes operate under different laws and regulations, the Forest Service intends to be a good neighbor and foster beneficial collaborative relationships and partnerships with Indian Tribes in the management of common landscapes and ecosystems.

There are a number of Federal laws that build upon the Constitutional bedrock of the sovereignty of Tribal governments. Key among those laws for the Forest Service are the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969, both of which provide opportunities for consultation and coordination and commit agency employees to seek

and encourage active Tribal participation in many aspects of land management and program services administration and delivery. In the National Forest Management Act of 1976 land management planning process, the Forest Service consults with Tribes and invites their participation. In addition, Forest Service line officers (Chief, Associate Chief, Deputy Chiefs, Regional Foresters, Station Directors, Area Directors, Forest Supervisors and District Rangers), in accordance with agency policy, frequently meet and consult with the leaders of Tribes who have treaty and other Federally protected rights on National Forest System lands. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires Federal agencies to develop an “accountable process” for ensuring meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications. The Forest Service Manual and Forest Service Handbook further define and clarify agency policy with respect to Tribes and are used extensively throughout the agency.

The Forest Service Office of Tribal Relations was formally established in 2004 within the State and Private Forestry Deputy Area. This year will mark ten years of the coordination, collaboration and consultation that the national office has provided to the various staff areas of the Agency. The Tribal Relations directives, including the handbook and manual that guide all 30,000 agency employees on their work with Indian Tribes, have been updated and revised and are currently out for Tribal consultation.

## **PARTNERING TO IMPROVE FOREST RESILIENCY TO WILDFIRE**

A recent report found the U.S. Forest Service may need to spend as much as \$1.55 billion fighting fires this year while the agency has only \$1 billion available for firefighting. If the season is that costly, the Forest Service will need to take funding out of other critical programs that increase the long-term resilience of our National Forests to wildfire in order to continue fighting fires.

The Forest Service has had to divert funds from other programs to fund firefighting efforts for 7 of the last 10 years. Fire transfer takes funding away from forest management activities such as mechanical thinning and controlled burns that reduce both the incidence and severity of wildfires. In addition to fire transfer, over the last two decades, the Forest Service has also had to shift more and more money to firefighting, thereby reducing foresters, Tribal liaisons, and other staff by over 30 percent.

In its 2015 budget proposal, the Obama Administration proposed a special disaster relief cap adjustment for use when costs of fighting fires exceed Forest Service and Department of Interior budgets. The proposal tracks closely with legislation authored by Oregon Senator Ron Wyden, Senator Mike Crapo of Idaho, and Representatives Mike Simpson of Idaho and Kurt Schrader of Oregon.

### *Fuels reduction*

Planning and implementation of vegetative fuels treatments are critical for all land management agencies, including Tribes, to reduce the risk of undesired wildland fire impacts. The Forest Service consults with Tribes to design and implement fuels treatments. Fuels treatments must be carried out before a wildfire occurs because when a wildland fire is already burning, it is too late to reduce the risk.

Wildfire is a landscape-scale phenomenon that does not acknowledge political or administrative boundaries. The purpose of fuels treatment is to alter potential fire behavior; its full value is only realized when tested by a wildland fire. However, that value also relies on careful planning and design, and on proper implementation. Some fuels treatments require collaborative work between many partners and governments and years of arduous efforts to complete a project. Fuels treatments can be effective in changing the outcome of wildfires because the fuel volume has been reduced and the structure and arrangement of the fuel has been modified. The resulting fire behavior has lower intensity thus providing wildland suppression personnel more options to safely manage the fire. Fuels treatments can serve as strategic points on the landscape from which to implement suppression operations and protect property and natural resources. Congress recognizes the utility and value of fuels treatments and has enacted legislation to support land management agencies to effectively implement fuels treatments.

Two recent examples of the Forest Service working with the Tribes in support of fuel treatments are:

- The Isleta Project in New Mexico, and
- The Chippewa National Forest support for Leech Lake Band of Ojibwe in Minnesota.

As part of The Chiefs' Joint Landscape Restoration Partnership, the U.S. Forest Service and Natural Resources Conservation Service have approved \$1,520,000 for the Isleta Project in the East Mountains near Albuquerque. The funds will be used for cross-boundary tree thinning, hazardous fuel removal, and controlled burns to restore 2,500 acres of the Cibola National Forest and 2,600 acres in Isleta Pueblo and Chilili Land Grant.

The ponderosa pine and pinon juniper forests of the East Mountains are dense, dry and overgrown. A wildfire in this area would be devastating to both people and nature. A [Wildfire Hazard Risk Report](#) found nearly 11,000 high-risk homes in the East Mountains. A wildfire in this area also has the potential to burn west through the Manzano and Sandia Mountains where it could jeopardize Rio Grande water supplies.

Since May 2008, 11 project partners have committed to this multi-jurisdictional project. Approximately 10,420 acres are identified for treatment on this landscape including approximately 2,000 acres on the Pueblo, 620 acres on Chilili, and 7,800 acres on National Forest System lands. These projects are cross-jurisdictional efforts that will help protect

communities, cultural resources, wildlife habitat, and recreational opportunities and improve overall watershed health. One of the overall measures of success for this project will be in the reduced threat to communities and homes in the project area from destructive wildfire, demonstrated by fuels reduction and improved resiliency (e.g., thinning). Treatments conducted through this partnership will protect Tribal communities as well as the ecosystem services they rely upon from across the landscape. In addition, some work on National Forest System lands will be implemented using Tribal crews through agreements under the Tribal Forest Protection Act, providing an economic benefit to Tribal communities.

The Chippewa National Forest signed a Memorandum of Understanding (MOU) in June 2013 with the Leech Lake Band of Ojibwe, pledging to work together in many areas, including hiring Tribal members, contracting with the Tribe, technology transfer, training, and more. The Chippewa is unique in that it shares overlapping boundaries with the Leech Lake Indian Reservation. Approximately 90 percent of the Leech Lake Indian Reservation lies within the Chippewa National Forest boundary.

Although the MOU was signed last June, collaborative efforts have been going on for years. In 2005, a Forest Service prescribed fire escaped onto reservation lands. To prevent similar events, the Forest offered the Tribe \$300,000 in Wildland Fire Hazardous Fuels funds to do fuels treatment and prescribed burns on their reservation. The Tribe treated 500 acres of their land. Following that success, in 2010 the Tribe treated an area close to a Tribal school that was an elevated fire risk. A third project is ongoing, and a fourth is being planned.

To date, the list of fuels projects that have been collaboratively designed include: three Hazardous Fuels Treatments; a Recovery Act project; a Prescribed Fire Agreement; two stewardship projects; and agreements to improve forest conditions on Chippewa NF lands. These projects have improved over 1,000 acres.

## **FIRE PREPAREDNESS**

The Forest Service is responsible for managing nearly 193 million acres of the National Forest System. We manage these lands mindful of the role they play in providing clean water, wildlife and wildlife habitat and other resources valued by communities and neighboring landowners, including Tribes. The Forest Service has a long and largely successful history of consulting and coordinating with Tribes in a government-to-government relationship on all aspects of forest and natural resource conservation and management, including wildland fire preparedness and wildfire suppression response. In the interagency environment of wildland fire management, the wildland fire management agencies of Tribes and Bureau of Indian Affairs are full partners in managing wildland fires, including coordinating and allocating assets to prepare for and suppress wildland fire.

The Forest Service also assists Tribes to prepare for wildland fire through the Cooperative Fire Assistance Program. Tribes may apply for assistance in training wildland fire fighters and acquiring firefighting equipment through the State Forester. Through coordination and unified command within a geographical area, interagency leaders determine priorities for fire fighter and public safety, identify resources at-risk to wildland fire, and identify post-burn fire rehabilitation needs. For example, in the Southwest Area, interagency wildland firefighting resources are coordinated by the Southwest Coordinating Group which includes agency representatives from the Forest Service, four agencies of the U.S. Department of the Interior (the Bureau of Indian Affairs, the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service), as well as the States of Arizona and New Mexico. In the Southwest Area, the Bureau of Indian Affairs represents Tribes with three members on the nine-member Southwest Coordinating Group. The Southwest Coordinating Group manages the Southwest Coordination Center, which is responsible for coordinating and facilitating the movement of wildland firefighting assets within the Southwest Area or as needed nationally through the National Interagency Coordination Center in Boise, Idaho.

## **FIRE SUPPRESSION**

The Forest Service and the Department of the Interior agencies manage the primary Federal wildland fire suppression crews and assets. The State Foresters and local fire protection districts also provide fire suppression crews and assets to the interagency effort and serve as partners with the Federal agencies. Fire suppression crews and firefighting assets are shared and assigned by an interagency system that includes priority for human health and safety, socio-cultural attributes and biological/natural resources. In periods of high fire danger or during a wildfire incident, Tribal lands are assigned fire prevention and/or suppression crews and assets as fire ignition danger increases. When a critical fire ignites or a fire builds into a large fire on Tribal lands, interagency fire suppression crews and assets are directed to the Tribal agencies that manage the affected lands. Incident Management Teams arrive at an incident with Tribal Liaison Specialists to initiate consultation with affected Tribes on a government-to-government basis as management strategies are developed for the incident.

## **BURNED AREA EMERGENCY RESPONSE**

Burned Area Emergency Response (BAER) is a program that addresses post-fire threats to human life, safety and property, as well as, critical natural and cultural resources in the immediate post-fire environment on federal lands. Common post-fire threats include flash flooding, mudflows, rock fall, hazard trees and high impact erosion.

Under the BAER program, scientists and other specialists quickly evaluate post-fire threats to human life, safety, property and critical natural or cultural resources including traditional cultural properties and sacred sites and take immediate actions to manage unacceptable risks. BAER assessments begin when it is safe to enter the burned area, but usually before the fire is

completely contained. BAER may include soil stabilization treatments (e.g., seeding and mulching,) or structure stabilization treatments such as road storm proofing (e.g., constructing rolling dips, and removing undersized culverts, to pass water and avoid damage).

Tribal consultation is an important part of Forest Service BAER assessments. BAER team personnel and the forest supervisor consult with Tribal governments, including elders designated by the Nation, to identify sacred sites, cultural sites and traditional cultural properties, and to address mitigation or stabilization treatments for those sites.

## **PLANNING RULE**

To create more effective and meaningful engagement with Indian Tribes, the Forest Service chose to start with coordination and collaboration before moving to formal government-to-government consultation on the revision of the National Forest System Land Management Planning Rule. In 2010, the Forest Service started its engagement with all 566 federally-recognized Indian Tribes by hosting 16 national and regional roundtable sessions followed by individual one-on-one Tribal consultation meetings between local Forest Service officials and Tribal leaders. In March 2011, Indian Tribes were invited to a listening session on the proposed rule with the Forest Service subject matter experts available to answer questions. This provided an opportunity for Indian Tribes and Alaska Native Corporations to continue to be part of the process of developing the rule.

Following the September 2011 release of the proposed rule, Indian Tribes and Alaska Native Corporations were invited to consult at the local level. Prior to this date, the Forest Service issued a directive requiring a minimum 120-day period for Tribal consultation on the development of all new national policy that might impact Indian Tribes, allowing more meaningful opportunity to consult. The proposed rule was the first national Forest Service policy to implement a 120-day Tribal consultation period.

Since the Rule was issued on April, 12, 2012, engagement and consultation has continued. An opportunity for Tribal consultation for the proposed implementing directives for the rule was initiated in February 2013.

Additionally, the Agency developed a 21-person Federal Advisory Committee to provide recommendations to the Secretary and Chief on implementation of the rule. The advisory committee includes Tribal representation. To date, 13 forests have begun Tribal outreach and dialogue prior to formal consultation as part of land management revisions initiated under the new rule. This pre-work fosters relationship building as well as provides time for more meaningful dialogue. The more formal government-to-government Tribal consultation is strengthened and becomes more meaningful and effective.

## **CLIMATE CHANGE AND THE TRIBAL ENGAGEMENT ROADMAP**

The rapidly changing climate has introduced new risks and opportunities for tribal forests and forestry. Tribes are adapting to the changing climate as they have through centuries of historic climatic changes, and in this new and perhaps unprecedented set of changes, forests and forestry programs can become an important element in that overall adaptation. To manage their forests effectively in a changing climate, Tribes need improved access to science-based information about the impacts of the changing climate and management options for local forests and woodlands.

The Forest Service Research and Development Tribal Engagement Roadmap is a major step in improving the way our research community works with and serves Tribes. Under the Roadmap, we are building and enhancing partnerships with Tribes, Indigenous and Native Groups, Tribal colleges, Tribal communities and InterTribal Organizations. We are enhancing communication with Tribes and other Native communities on research results that are relevant for their needs, as well as in forms and forums that are culturally appropriate and effective.

In all lines of research of mutual interest, we will include and consider Tribes, and keep them involved through the entire research process. This includes collaboration in setting research priorities, designing projects, implementing projects, and analyzing/disseminating results. We encourage Tribal and Native representation in the Forest Service workforce through recruitment and outreach, as well as programs such as Pathways and other internship opportunities. We also partner with Tribal colleges and universities to engage students and Native faculty in order to share perspectives and increase their capacity for research engagement.

This effort supports the goals and objectives outlined in the agency-wide [Tribal Relations Strategic Plan 2010-2013](#), and contributes to the broader Forest Service Tribal Relations Program. Consistent with Forest Service national strategic goals and objectives, this strategic plan identifies specific goals, objectives, and actions to guide the agency. [http://www.ForestService.fed.us/research/ Tribal-engagement/roadmap.php](http://www.ForestService.fed.us/research/Tribal-engagement/roadmap.php)

## **SACRED SITES**

In 2010, USDA Secretary Vilsack directed the USDA Office of Tribal Relations and the Forest Service to review policies and procedures for the protection of and access to Indian Sacred Sites on National Forests. The results were published in the Sacred Sites Report in December of 2012, and the Forest Service began to implement the review's recommendations. While the report itself is not a policy, it has paved the way for a new approach to do business, encourages better use of existing policies, and the creation of new policy where needed. Any changes to policy will go through public review and tribal consultation. The report does promote flexibility in using existing policy to meet the need to protect sacred sites.

A charter signed in June 2013 established Executive and Core teams to develop strategies and actions to implement the recommendations in the Sacred Sites Report. The teams are comprised of executive leaders, field line officers, and staff officers with a commitment to cross-cultural understanding and Tribal relationships. These teams are working to develop a shared program of work, advance specific recommendations in the report, and enhance the relevance of sacred sites through first-hand interaction with local Tribal elders and medicine people. The teams benefited from exceptional and powerful interactions with Tribal leaders regarding the nature of Sacred Sites. These interactions provide the teams with insights necessary to develop a strategic and inspirational approach for advancing recommendations in the Sacred Sites Report.

## **ANCHOR FORESTS**

Forests throughout the United States are negatively impacted by fragmentation, wildfire, insects, disease, drought, and climate change. The management, harvesting, transportation, and processing infrastructure necessary to sustain healthy and productive forests are disappearing. As a result, vital ecological systems and economies of rural communities are suffering. Anchor Forests are large contiguous areas of Tribal trust land that can support sustainable long-term wood and biomass production levels; are backed by local infrastructure and technical expertise; and are endorsed politically and publicly. Anchor Forests are intended to mitigate the above listed negative impacts by creating large networks of interdependent local partners to promote robust large scale landscapes. The Intertribal Timber Council representing over 60 Indian Tribes with forest interests believes that Anchor Forests are a “common sense, multifaceted approach for retaining healthy working forests through partnerships, collaboration and coordination.” The Anchor Forests pilot project is a \$700,000 grant from the Forest Service to ITC. The pilot consists of three study areas in eastern Washington State involving the Indian Tribal land on the Yakama Nation, Confederated Tribes of the Colville, and Spokane Tribe. Partners include the Forest Service (Region 6 and Pacific Northwest Research Station); Washington Department of Natural Resources; researchers from the University of Washington, The Nature Conservancy, and the University of Idaho. Data is being gathered for six tasks: infrastructure analysis; Tapash collaborative case study; institutional capacity; barriers and solutions; tools and funding opportunities; and ecosystem services.

Three recent Indian Forest Management and Assessment Team studies spanning the last three decades have indicated Indian Tribal Forests have desirable management practices. And, because most Indian Tribes have their lands held in trust with most lands considered ancestral land, the Anchor Forests will remain intact for future generations.

## **SPECIAL FOREST PRODUCTS**

The Cultural and Heritage Cooperation Authority (25 U.S.C. §3055; Section 8105 of the 2008 Farm Bill) gives the Secretary discretionary authority to provide, free of charge, any trees, portions of trees, or forest products from National Forest System lands to federally recognized



Indian tribes for noncommercial traditional and cultural purposes. These products are currently being provided to Tribes under a Forest Service Interim Directive. The Department is developing a regulatory process to implement the authority. [A Proposed Rule is being prepared.] Providing federally recognized Indian tribes with a clear and concise process to request forest products for traditional and cultural purposes not only will improve our quality of customer service but demonstrates respect for our government-to-government relationship with Indian Tribes.

The Forest Service continues to work in partnership with Indian Tribes to enhance traditional foods. For example, the Mt. Baker- Snoqualmie National Forest and Muckleshoot Indian Tribe have entered into a partnership to enhance the production of big huckleberries in the Government Meadows area of the Snoqualmie Ranger District, in response to Muckleshoot tribal elders concern that berry yields were declining. Additionally, UC-Berkeley and the Karuk Tribe plan to conduct research with USFS scientists and others to investigate how traditional land management techniques impact the productivity and availability of traditional Karuk foods, and have been working with the Six Rivers and Klamath National Forests under a Memorandum of Understanding since July 2012. Through their research, they plan to determine what the impact of that management might be on the other interests that the National Forests have to also address (such as fire, disease, water, and recreation).

#### **TRIBAL FOREST PROTECTION ACT OF 2004**

The Tribal Forest Protection Act (TFPA) of 2004 provides Indian tribes the opportunity to apply for and enter into stewardship contracts to protect Indian forest land, including projects on Federal land that borders on or is adjacent to Indian forest land and poses a fire or other threat to Indian forest land under the jurisdiction of the Indian tribe or a tribal community.

Since the TFPA was enacted, a limited number of federally-recognized Tribes have used this authority. In an effort to discover why the authority has gone underused and find solutions, the Forest Service funded a \$302,824 cooperative agreement with the Intertribal Timber Council (ITC) in 2011. The ITC reported their findings in April 2013, finding that in many areas, Forest Service and Tribal personnel are working together, but that it is not universal. Generally, there is some awareness and understanding of TFPA by both Tribal and Forest Service personnel, yet there is the need for clear, consistent guidance that is readily available to remote locations so new personnel become properly oriented and trained in using the authority more effectively. Tribes are often unable to actively participate in developing plans for restoration of neighboring National Forest System lands due to staff and funding limitations.

Several actions that address the recommendations of the report are already in progress. For instance, we have already identified personnel to serve on the Agency's TFPA implementation team; those individuals will work in conjunction with the ITC and the Bureau of Indian Affairs. A framework has been developed, outlining the guiding principles for the team that will lead to

implementation of the recommendations. In addition, the Agency and the Department are working to develop tribal relations training including a module that will be required for all employees. It will be important to use these training tools when considering a training specifically related to TFPA.

Agreements, such as memorandums of understanding, are excellent ways to maintain relationships in the midst of turnover between the Agency and Tribes and to lay out expectations and protocols. Several agency units have existing MOUs. The team will identify where additional MOUs are needed to address TFPA goals and will work with units to develop those.

We also know that Tribes have accomplished several projects that meet the intent of the Act but are not considered TFPA projects. It will be important to identify that work so that the larger context of accomplishments by Tribes can be appreciated.

### **OTR MAPPING PROJECT**

The Forest Service offices of Tribal Relations, Engineering, and Forest Management, in cooperation with the Bureau of Indian Affairs, are developing an interactive map called Native Connections. This tool will be available to Forest Service staff, Tribes, and others, providing a visual map across landscapes to identify Forest Service land, Tribal lands, and ceded lands all in one place. It will help improve decision-making on incident and resource management; identify cooperative opportunities; honor and strengthen the federal trust responsibility and treaty rights; and recognize historic Tribal interests and customs relative to contemporary circumstances such as forced Tribal removal.

### **CONCLUSION**

USDA is ready to assist Tribal governments and communities in managing Tribal forests to improve their health and resiliency, and to avoid, mitigate or replace lost natural resources, crops, infrastructure developments or property due directly to the occurrence of wildfire or the post-burn environmental and social consequences. We are committed to our government-to-government relationship as Sovereigns with Tribes and welcome the opportunity to consult with Tribal governments to improve the health of our nation's forests across boundaries. Mr. Chairman, Mr. Vice Chairman and Members of the Committee, this concludes my testimony. I'll be happy to answer any of your questions.