

DEPARTMENT OF AGRICULTURE

FIRST ANNUAL REPORT ON TRIBAL CO-STEWARDSHIP

Implementation of Joint Secretarial Order 3403 on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters

NOVEMBER 30, 2022



LETTER TO THE PEOPLE OF THE UNITED STATES

Last November, we were proud to commit our Departments to advance the practice of co-stewardship of our public lands and waters with Tribal nations. As part of President Biden's Tribal Homelands Initiative, we signed Joint Secretarial Order 3403 (Order). Simple in its goal, the Order acknowledges that Tribal nations can and must play an important role in the management of lands and waters the Federal Government has been entrusted to manage for the benefit of all Americans.

At its core, the Order recognizes the Federal Government's unique nation-to-nation relationship with Tribal nations and that public lands and waters are the ancestral homelands of Native American and Alaska Native Tribes, and the Native Hawaiian community. Indigenous people have stewarded these places since time immemorial, predating the formation of the United States and its land management agencies.


As we care for these lands and waters, we must honor our treaty and trust responsibilities to protect Tribal sovereignty and revitalize Tribal communities, including protecting access to resources for subsistence, and cultural and spiritual practices. We must also preserve the wildlife, resources, and sacred sites that hold significance to Tribal nations.

We have made important progress in our first year of implementing the Order, including announcing a number of agreements that help solidify the Government's commitment to Tribal co-stewardship. Equally important, we are building the infrastructure at our Departments to strengthen this critical work—from making available legal analyses on the many authorities that underpin co-stewardship, to formulating guidance for land management agencies, to creating better pathways for public-private partnerships to support co-stewardship.


More work lies ahead to usher in a new era of Tribal co-stewardship of public lands and waters. Namely, we must build additional capacity—in both the Federal Government and Tribal governments—to develop and implement agreements for meaningful co-stewardship of public lands and waters.

Both DOI and USDA will publish reports documenting progress over the past year. We believe that our respective first-ever annual reports, consistent with the Order, demonstrate that Tribal co-stewardship, in its many shapes and sizes, benefits Tribes; the greater American public; and the land, water, and wildlife that bind us together. We look forward to reporting on our progress in the years to come.

Respectfully,



Thomas J. Vilsack
U.S. Secretary of Agriculture



Deb Haaland
U.S. Secretary of the Interior

I. BACKGROUND

Indigenous people are the original stewards of our nation’s waters and lands. From the formation of the United States Government and through treaties, executive orders, and statutes, the United States accepted trust responsibility to protect Tribal sovereignty, resources, treaty, and other recognized rights. These obligations include ensuring Tribes have a role in protecting and managing the millions of acres of Federal public lands that were once Tribal homelands and promoting Tribal self-determination. The United States must ensure that Tribes continue to have a role in stewarding land and work alongside Federal land managers to effectively carry out their roles.

In November 2021, President Biden announced the “Tribal Homelands Initiative”, a collaboration between the Department of Agriculture and Department of the Interior to improve stewardship of public lands, waters, and wildlife by strengthening the role of Tribal communities in Federal land management. This initiative aims to ensure the Federal Government elevates the role of Indigenous Traditional Ecological Knowledge (Indigenous Knowledge), protects sacred sites, and honors trust and treaty responsibilities to Tribal governments. The effort also seeks to restore Tribal homelands by improving the land-into-trust process.

On November 15, 2021, in response to President Biden’s initiative, Agriculture Secretary Thomas J. Vilsack and the Interior Secretary Deb Haaland signed Joint Secretarial Order 3403 (Order) “Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters.” The Order directs the two Departments to ensure that their decisions relating to Federal stewardship of lands, waters, and wildlife include consideration of how to safeguard the treaty, spiritual, subsistence, and cultural interests of Tribes. It also directs the Departments’ agencies to facilitate agreements with Tribes to collaborate in the co-stewardship of Federal lands and waters and to strengthen Tribal homelands.

To help steer and carry out work related to this Order, U.S. Department of Agriculture formed a dedicated JSO implementation team consisting of representatives from both the Department and the Natural Resources and Environment Mission Area, an office that provides policy guidance to the USDA Forest Service. The team brings together senior leaders from the USDA Office of Tribal Relations, Natural Resources and Environment Mission Area, and Forest Service leadership in the National Forest System, State and Private Forestry, and the Forest Service Office of Tribal Relations. This Annual Report outlines key progress made in the past year to implement the Order.

II. YEAR ONE ACCOMPLISHMENTS AND PROGRESS:

In fulfillment of the requirements outlined in the Joint Secretarial Order, the Department of Agriculture has taken action to ensure that its Offices and Agencies manage Federal lands and waters in a way that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes and Native Hawaiian Communities. Below is a summary of Departmental agreements, policy changes, and guidance that serve to advance co-stewardship, strengthen the nation-to-nation relationship between the United States and federally recognized Indian Tribes; and honor the United States' unique trust obligation to Indian Tribes and their citizens.

Co-Stewardship Agreements with Tribes

Over the course of the past year, the Department and the USDA Forest Service collaborated with Tribal Nations across the country to foster opportunities for co-stewardship, reflecting a wide range of priorities and interests shared by Tribal citizens and leaders. In this year alone, USDA's Forest Service finalized 11 agreements with 13 tribes, and have at least 60 additional agreements with 45 tribes currently at different stages of review. In total, USDA invested approximately \$19.8 million in a commitment to advance co-stewardship with Tribes. These co-stewardship agreements aim to protect cultural resources and treaty rights; protect and enable ceremonial traditional activities and food sovereignty; integrate traditional knowledge into land management decision making; care for forests and watershed health; restore healthy wildlife habitats and fire-adapted ecosystems and more.

This report highlights eleven agreements that represent the rich diversity within collaborative government to government partnerships and the deep land management knowledge possessed by Tribes to assist in agency completion of mission critical work. This work spans across our nation from the Pacific Southwest to the Southeast, touching thirteen Tribes and eight National Forests, with an investment of \$4.1 million.

- **Bears Ears National Monument:** In June 2022, USDA and DOI signed a landmark joint Intergovernmental Cooperative Agreement between the Bureau of Land Management, U.S. Forest Service, and the five Tribes of the Bears Ears Commission: Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, and the Pueblo of Zuni. This interagency agreement will fund tribal capacity to coordinate and cooperate in federal management of 1.36 million acres of the Bears Ears National Monument on the Manti-La Sal National Forest in Utah. All involved parties met regularly to discuss progress and co-develop the resource management plan for the monument.
- **Tongass National Forest:** The Tongass National Forest has worked closely with tribes and tribal partners in Alaska – the Hoonah Indian Association, the Organized Village of Kake, and the Organized Village of Kasaan- to execute multiple agreements. The agreements include thinning work that contributes to the long-standing Hoonah Native

Forest Partnership, youth stewardship projects that protect burial sites while providing training and leadership development in Kake, and a framework to sustain culturally critical resources and forest products in Kasaan. These co-stewardship agreements also include sharing traditional ecological knowledge, enabling workforce development, and protecting culturally significant places.

Nez-Perce Tribe: The Nez Perce Tribe and the Nez Perce-Clearwater National Forests in Idaho continued their long-standing collaboration in 2022 with a Master Participating Agreement for stream and floodplain restoration, and continuation of historic and prehistoric interpretation. The Nez Perce Tribe is leading this stream habitat restoration in the Crooked River Valley to protect steelhead and Chinook salmon.

- **Tule River Tribe:** The Tule River Tribe and the Sequoia National Forest in California developed a co-stewardship Memorandum of Understanding (MOU) to establish a framework to better protect ceremonial and traditional activities and food sovereignty, and to preserve and integrate traditional knowledge into Forest Service land management decisions. The MOU is intended to document the parties' communication, consultation, and cooperation processes and help forge a mutually agreed path forward, including to develop a framework and agreement for implementing co-stewardship on the National Forest within a year.
- **Eastern Band of Cherokee Indians:** The Nantahala and Pisgah National Forests in North Carolina and the Eastern Band of Cherokee Indians entered into a historic Tribal Forest Protection Act (TFPA) agreement, the first ever to be signed within the Southern Region of the Forest Service. The Southern Region covers from Texas to North Carolina and includes the southeast United States. Coupled with a Good Neighbor Agreement, this work integrates cultural and traditional ecological knowledge with silviculture and fire management to inform best management practices for basket-quality white oak trees and other culturally important forest products while reducing fire risk, restoring oak forests, improving wildlife habitat, creating early successional habitat, promoting cultural tourism and recreation, and reducing risk to tribal trust lands.
- **Karuk Tribe:** The Karuk Tribe, the Six Rivers National Forest in California, and other partners built on previous relationships to supplement a Master Stewardship Agreement for the Western Klamath Restoration Partnership (WKRP) Planning Area. This year's agreement will address fuels reduction and forest health through collaborative implementation and monitoring of the project, including strategic fire control features, integrated landscape-scale vegetative, fuels reduction, and restorative prescribed fire treatments in the tribal community of Orleans.
- **Cow Creek Band of Umpqua:** The Cow Creek Band of Umpqua and the Umpqua National Forest in Oregon signed one of the largest of all Forest Service Tribal Forest Protection Act proposals and the largest Forest Service self-determination agreements to date to reduce fuels in strategically important areas of National Forest System lands that border tribal lands, the wildland urban interface, and private property. This work will simultaneously reduce fuel concentrations enough to enable firefighters to use treatment

areas as potential control lines in the event of future wildfires, as well as the severity and intensity of fire through the treated areas.

In addition to the co-stewardship agreements mentioned above, the Department made significant strides in other avenues.

Following the issuance of Executive Order 13985, USDA released its Equity Action Plan, a comprehensive set of focused actions to advance equity. A key priority focuses on upholding tribal trust and treaty responsibilities, after many years of inconsistent implementation of obligations and commitments across the Department. In forming the plan, USDA analyzed barriers Tribes face in working alongside the Department and in accessing our programs and named the intention to incorporate indigenous values and perspectives into Departmental work.

Improving Access to USDA Programs

Review of Statutory Authorizations, USDA OGC is conducting a legal review of statutory authorizations to determine whether there are ways of interpreting statutes to remove legal barriers for Tribes and Tribal members to participate in USDA programs. USDA OGC is also looking at ways that authorities that enhance the ability of the Tribes to administer USDA programs can be shaped to more effectively work with USDA programs and appropriations, including authorities to expand the use of Tribal Forestry Protection Act (TFPA) 638 project authority at USDA

Improving Match Waiver Policy. In July 2022, Chief Moore of the USDA Forest Service announced monumental interim policy changes for partnership and cooperator agreements with the agency. The direction removes the requirement for substantial cash contributions, waiving policy match requirements (non-statutory) for all agreements with tribal governments and creates a process to waive policy match requirements for partners that will serve underserved communities. This policy shift recognizes the full range of values Tribal governments and other partners bring to the partnership, such as access to underrepresented and underserved communities; climate resilience and forest health project management experience; and deep understanding and connections to indigenous knowledge. While the match waiver opportunity with Tribal governments has existed for some time, this announcement marks an intentional leadership and agency-wide commitment to using the policy to increase Tribal access and partnership with the agency.

Valuing Indigenous Knowledge and Perspectives

Incorporating Indigenous Knowledge, USDA participates in the Indigenous Knowledge Interagency Working Group, a cohort of federal agencies focused on crafting and implementing Federal guidance on Indigenous Knowledge, and has created an internal USDA working group on implementation of Indigenous Knowledge. Directed by the November 2021 memorandum on Indigenous Knowledge, the guidance developed will include best practices on engaging with Tribal Nations and Native communities to achieve mutually beneficial outcomes and how to incorporate Indigenous Knowledge into land management practices and Federal scientific and policy decisions. This general guidance will be released in November 2022 at the Tribal Nations Summit and will serve as a foundation for Department specific actions. Prior to the guidance

release, USDA already began progress on identifying areas for the incorporation of indigenous values and positions into each agency.

Protecting Access within the Forest Service. Many of the joint efforts between Tribes and the Forest Service focus on access. Access to traditional lifeways, sacred places, treaty rights, and traditional food systems – and the land management activities that support them. Managing the National Forest System to protect and restore culturally important species and resources for gathering, foraging, and other uses is critical to maintaining traditional food systems and subsistence for many Tribes.

Supporting tribal food sovereignty, subsistence, and traditional uses. The expansion of our co-stewardship efforts with Tribes includes many opportunities to incorporate indigenous traditional ecological knowledge with respect to foraging, and management for and use of special forest products on ancestral and tribal trust lands. One example is the recent Tribal Forest Protection Act agreement between the Eastern Band of Cherokee Indians and the National Forests in North Carolina to integrate artisan and cultural knowledge (traditional ecological knowledge) with silvicultural and fire management to inform best practices for managing forests for basket quality white oak trees and other culturally important forest products. We expect to continue such efforts as we work to expand the scope and scale of tribal co-stewardship.

- In general, the Forest Service has tried to make it as easy as possible for tribal members to gather forest products for subsistence or cultural purposes. Recent changes to the Forest Service Handbook were intended to make the policy and authorities easier for the field to reference and understand.
- Many tribes have treaty and reserved rights for harvesting special forest products and we make liberal use of our free use authorities for gathering for cultural and traditional purposes for tribal members in general.
- As part of the ongoing policy review directed by Joint Secretarial Order 3403, the Forest Service will continue look for ways to uphold treaty and reserved rights, make free use easier and remove any barriers that Tribes may encounter when seeking special forest products for foraging or subsistence purposes.

III. CONCLUSION

The great progress made in 2022 by USDA reflects the Department's commitment to advancing co-stewardship with Tribal Nations. With historic investments and agreements in place and many more in progress as the Order is implemented, the Department is committed to rebuilding trust and laying the foundation for future catalytic work with Tribes.

Future work will build on current actions with a vision towards expansion and promotion of tribal sovereignty and self-determination. The next year will focus on continuing to identify paths for barrier removal to programmatic access and exploring opportunities to institutionalize and allocate dedicated resources to Departmental work on tribal sovereignty and self-determination, and by expanding co-stewardship. Additionally, training to educate employees

across the Department on treaty responsibilities will be developed to ensure consistent application and implementation.

Employees across the Department realize the moment we are in and the great responsibility we have to Tribes to work shoulder to shoulder in stewarding our public lands.