

APPENDIX D

TRIBAL FOREST PROTECTION ACT

Site Visit Reports

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Santa Clara Pueblo – Santa Fe National Forest Site Visit

July 23-24, 2012

Introduction: The Intertribal Timber Council (ITC), US Forest Service (FS) and Bureau of Indian Affairs (BIA) visited the Santa Clara Pueblo (SCP) and Santa Fe National Forest (SFNF) on July 23-24, 2012 to discuss TFPA implementation, particularly the Santa Clara Pueblo January 2011 TFPA proposal on the SFNF. The proposed project would reduce the risk of wildfire and associated flooding and related effects to reservation resources. The visit included an introduction to the Santa Clara Pueblo culture and traditions, followed by an overview of the history of the SFNF history, current FS project priorities and a description of the many FS stakeholders that are involved in management of their SFNF lands. The team then visited Tribal and FS administered lands to view the current conditions of residual spruce-fir, Ponderosa pine and juniper forests, and the impacts to vegetation and erosion in Santa Clara creek canyon that resulted from the 2011 Las Conchas fire.

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Background:

The Santa Clara Pueblo is one the oldest occupied settlements in the United States, one of six Tewa speaking Pueblos in New Mexico. The people are tied closely to their culture and are very dependent on the land which they use for hunting, fishing, gathering of food and medicinal plants, agriculture, and as a spiritual sanctuary. Water (quantity and quality) is critical to the SCP, both for sustenance and spiritual well being.

The Pueblo also maintains hunting, fishing, gathering (foods, medicines, personal use products), and other reserved rights on neighboring federal lands.

The SCP recognizes the need for proactive management and ecological restoration of the landscapes that affects the waters so critical to Santa Clara culture and values. They are very concerned with the adjacent overstocked SFNF stands (particularly spruce) that present significant risk to Tribal lands from insects, disease and wildland fire. Wildland fire in the this region typically is followed by post fire monsoons that seriously and permanently impact soils, obliterate roads, fill water retention ponds with sediment, and cause serious damage to Tribal springs and streams. The Pueblo has witnessed firsthand the impacts of three fires that originated on FS administered lands and burned onto Pueblo lands since 1998. The fires include the Oso fire of 1998, the Cerro Grande Fire of 2000, and the Las Conchas Fire of 2011. Each fire has been larger and more devastating to Pueblo lands. The recent Las Conchas fire devastated the Santa Clara canyon, causing serious erosion and impacting the Pueblo's water resources. These effects will impact the Santa Clara Tribe for a long time into the future.

The SCP initiated a formal TFPA request to Department of Agriculture Secretary Vilsack in June 2010. The Secretary recommended that the SCP to work directly with local Espanola Ranger district. Efforts have been ongoing for several years, but no projects have been approved. The Pueblo still remains interested in projects to reduce over-stocked spruce stands on adjacent Forest Service lands to protect the head waters of Santa Clara Creek, to mitigate insect and disease threats, to protect and enhancement springs by conducting timber harvest, timber stand improvement, aspen management and dwarf mistletoe control in an effort to restore and stabilize the Santa Clara Creek watershed.

The SFNF contains approximately 1.5 million acres in two distinct parcels. The Jemez Mountains are sacred to all Native Americans, including eight local Pueblos. Diverse grass/pinyon juniper/Ponderosa pine/mixed conifer/sub-alpine fir ecosystems exist. Ponderosa pine seral forests are abundant, but transitioning to fire intolerant species due to sheep grazing and fire suppression. Overstocked stands of white fir and Ponderosa pine have become prevalent. High elevation stands of spruce/fir are in serious need of restoration and rehabilitation and tend toward stand replacing fires when they burn. Extreme fire years are becoming common and regularly result in stand replacement fires with severe impact to landscapes.

Much of the SNF lands around the SCP are either roadless areas or wilderness, thus complicating and/or restricting resource management treatments.

The SFNF has prioritized most of their near term (1-5 years) resources into the Southwest Jemez Mountain's Collaborative Forest Landscape Restoration Project. This commitment restricts the ability of SFNF and SCP from actively pursuing a

TFPA project and treatment of the Santa Clara watershed due to staff commitments and lack of project funding for new commitments.

Observations:

The SCP and the SFNF appear to have a good working relationship – especially between the District Ranger, Santa Fe Forest Tribal Relations Liaison, and the Santa Clara Forestry Dept. There is also a high level of interest from the SCP government. This provides a solid foundation for further dialogue.

Both the SFNF and the SCP are passionate about the landscape. There are areas of common vision but they may be coming at it from different angles and use different language when describing similar outcome. Semantics appears to be a challenge to clear communication and understanding of common objectives. Fortunately, there appears to be a willingness to explore management options and reach a common understanding of how to manage landscapes.

This region has no remaining large scale timber industry to process timber and biomass, so commercial outlets to market forest products; inhibiting efforts to implement land management treatments using value from the land to pay for treatment. The SFNF and USFS Western Region are looking for ways to stimulate industry.

The Pueblo is very concerned with the extended time frames required by the Forest Service to conduct planning and environmental compliance necessary to bring projects to the treatment stage.

The Santa Clara Pueblo Forestry staff needs additional technical assistance in developing proposals, assisting in project planning, and project implementation.

Both the SCP and the Espanola Ranger district currently lack knowledge on how to best implement TFPA projects, the expertise to carry them out under current management constraints, and the capacity to plan and implement new projects. The Pueblo appears to have their hands full with emergency stabilization, rehabilitation and restoration within Santa Clara canyon. In spite of these limitations, the SCP still recognizes the need to address these concerns and has the desire to initiate action to protect their remaining resources.

The local SFNF lack adequate funding and staffing to engage in a TFPA project with the Santa Clara under their current work plans. The Espanola District Ranger does not have this project as a priority at this time. They are willing to discuss the SCP request, but need to either reprioritize projects or identify additional funding and staffing to address this request.

The scale and scope of the landscape being considered is different between the SFNF and the SCP creating differences on how priorities are selected. The SFNF has a larger landscape over which to prioritize resources for project work. They believe there is a greater need for treatment in the ponderosa pine versus spruce fir habitat types (more frequent fire intervals in pine ecosystems). The Pueblo has a smaller land base intrinsically tied to their culture and existence, thus driving up the importance for treatment of their remaining watershed and surrounding SFNF lands. The smaller projects the Pueblo is proposing would make a huge difference to protect their lands. The FS hasn't selected these smaller projects because they don't result in enough treatment done on the ground.

Findings and Recommendations

National:

Finding 1: Training and technical assistance remains a significant need to help understand and implement TFPA projects at all levels within all agencies.

Recommendation:

- Complete the four training modules and package them for easy access and participation using modern technology (self directed webinar, online courses, classroom instruction, etc.)
- Develop a cadre of Tribal, Forest Service and Bureau of Indian Affairs specialists who can assist with training and technical assistance in developing TFPA projects for regional and local staff.
- Provide for TFPA training and updates at key agency meetings and associated training sessions.

Finding 2: The Forest Service's Collaborative Forest Landscape Restoration (CFLR) and the Collaborative Forest Landscape Restoration Programs (CFLRP) are not well understood by the Pueblos and Tribes nationally.

Recommendation(s):

- The FS-WO needs to prepare and present an overview of these programs for Tribal and BIA personnel as options to leverage project funding.
- CFLRP participation needs to be clarified and/or changed to allow Tribes to take an active role in landscape level activities. The Department of Interior Hazard Fuel Prioritization and Allocation System (HFPAS) needs to be modified to facilitate projects crossing FS and Tribal lands.
- A landscape level assessment (or access to existing assessments) is needed to determine priorities, capacities, and funding sources

and gaps to better determine feasibility of performing large scale CLFRP's on TFPA projects in the region.

Finding 3: The Office of Management and Budget (OMB) decision to shorten ARRA time frames for project implementation has created difficulties for the Santa Clara tribe to effectively utilize the monies and achieve desired treatment results. Short time frames do not align well with ecosystem functions and desired treatment results. Landscape objectives do not fit well within bureaucratic decision making.

Recommendation(s):

- The FS needs to revisit the OMB decision to shorten implementation time lines for the Santa Clara ARRA projects. Efforts to shorten implementation time frames to treat a fragile, erosive ecosystem, tends to force good money to be spent for badly timed treatments. Extending the availability of the ARRA monies would lead to more effective, sustainable treatments that have lasting effects.

Finding 4: The current use of contracting instruments does not allow for Tribes and the Forest Service to enter into effective partnership relationships. Tribes are treated as standard vendors, which is contrary to the intent of government-to-government relationships and trust responsibilities. For TFPA to work effectively with Tribes as partners, they need to participate as partners in developing and implementing cost effective landscape treatments:

- The Forest Service National Office needs to provide clear direction to the field that TFPA is a national priority and that forming true partnerships is the intent. They also need to incentivize local forests and ranger districts to invest the time and resources to make TFPA projects a reality.
- The FS needs to identify appropriate instruments that provide the flexibility to establish a true partnership relationship allowing Tribes and agencies to select the most appropriate instrument to accomplish cost effective treatments on the land.
- The ITC, Bureau of Indian Affairs and Forest Service should to investigate the potential to improve and build-upon the PL 93-638 authority for use by the FS. This authority is widely used by DOI bureaus to enter into self-determination agreement with Tribes. This instrument allows for greater flexibility than current FS instruments to accomplish on-the-ground treatments by recognizing Tribal sovereignty and compliance with Tribal laws and regulations. One significant benefit is the ability to recognize Tribal labor laws and benefit packages as valid and governing of

tribally implemented treatments, thus waving federal labor/benefit regulations for Tribes.

Finding 5: Current access to DOI funds to compliment CFLR project funding is hampered by DOI HFPAS formulas for allocation of hazard fuel funds to DOI projects. The current formula does not recognize Tribal partnerships with the USDA Forest Service when ranking projects for funding, nor does it recognize the risk that FS lands present to Tribal lands. Being able to match DOI and USDA funding to accomplish landscape level treatments is imperative to effective landscape treatments that protect resources for the future.

Recommendation(s):

- The USDA and DOI need to coordinate their hazard fuel funding systems with State and Private fuel funding to compliment coordination across departmental lands and improve the effectiveness of landscape treatments.

Regional:

Finding 1: Agencies in Northern New Mexico generally lack the technical expertise to market forest products efficiently. The region lacks the processing infrastructure to utilize products from the forest. This situation restricts options to fund and implement active land management across all ownerships.

Recommendation(s)

- The FS and BIA should conduct a forest product marketing and facility feasibility study for forested lands in New Mexico to assist National Forests, Tribes and other interested parties to effectively market available forest products. Finding and developing markets is critical to cost effectively managing fire prone ecosystems. Developing markets for goods provides more resources to accomplish needed services. Bureaus (FS and BIA) need to coordinate efforts to identify and develop markets for forest products that assist all partners in cost effectively treating fuels.
- Marketing of forest products and processing feasibility should become a part of the CFLRP process.
- Consider carrying out a study on biomass potential, including Combined Heat and Power potential, for northern New Mexico (biomass utilization grant).

Finding 2: Tribes, the FS and the BIA do not have a current, effective Memorandums of Understanding (MOUs) that clearly spell out their relationship, identify common objectives, and the MOU intent to guide their efforts through changing leadership and staff within all entities, over time.

Recommendation (s)

- The ITC, Forest Service and BIA need to develop a MOU to outline how they will function for the near term (5-10 years) as they consult to address health and restoration issues.
- Individual Tribes and associated National Forests need to conduct government to government consultation meetings to compile a local MOU that can guide their dialog, coordination, and how they develop TFPA projects.
- The FS, BIA and ITC need to provide facilitative services to local agencies early on to assist the development of local partnership MOUs.

Local:

Finding 1: The SCP and the SFNF have separate, distinct visions of how the landscape should be managed. The Santa Fe National Forest land management options are further complicated by land classifications for roadless, wilderness and national monuments; agency regulations; and court decisions. These restrictions create impositions to effective landscape level treatments, thus restricting landscape level management and increasing risk to fragile Tribal lands. The threats from wildfire, insects, and disease to SCP lands remain a serious concern, which has been further complicated by concerns for soil stabilization. Restoration of the remaining Spruce-Fir within the headwaters is even more important now than prior to the Las Conchas fire. The Santa Clara watershed has been adversely affected by both Forest Service restrictions and treatment priorities. A proposal to convert the Valles Caldera to NPS jurisdiction would provide additional restrictions on implementing effective landscape treatments to reduce risk to pueblo lands.

Recommendation(s):

- The Partners need to develop a local MOU that defines their understanding and relationship on how they will interact to address issues now and into the future, even as leadership and staffing changes occur. The MOU should address how the Forest Service will implement tribal consultation as part of its public engagement responsibilities.
- The partners should develop a shared management vision of the how to treat the local landscapes to sustain resource values important to both the SCP and SFNF. This should include developing a joint detailed long range landscape plan that addresses broad stakeholder concerns, identifying priorities for treatment and funding. Initial efforts to treat the landscape should include a detailed plan to

address the most pressing concerns, scaled to make the project feasible to complete planning, funding and implementation over a reasonable time frame.

- The partners need to explore expanding their partnership to include other local stakeholders to increase participation, ownership and support of recommended treatments.
- Agency and Tribal capacity must be considered when planning and scheduling projects.
- Treatment effectiveness should be based upon “acres benefitted by treatments” and not solely on “acres treated”.

Finding 2: The Forest Service priority for treating Ponderosa Pine ecosystems over spruce-fir ecosystems place the SCP proposal at a significant disadvantage in accessing funding to treat spruce-fir ecosystems.

Recommendation(s):

- The stark reality of how seriously the Santa Clara watershed has been impacted by recent fires starting on Forest Service land make treatment of remaining un-burned stands urgent and imperative for all parties. The first step in addressing the spruce-fir forests in this region is to collectively develop restoration prescriptions that will move these ecosystems to healthy resilient conditions, capable of withstanding recent fire intensity and weather events. Prioritizing soil stabilization efforts throughout the Santa Clara watershed should be a priority for all parties.
- Both partners should then seek funding to initiate treatment of spruce-fir ecosystems on Tribal and FS lands within the Santa Clara creek watershed in order to sustain remaining forest stands in a resilient, healthy condition.
- Consider including the Santa Clara Canyon Headwaters into a CFLR project. Work collectively to seek partners who can support and help fund restoration of the Spruce-Fir in the headwaters. Check with FS Grants and Agreements and State & Private Forestry to identify potential funding partners available to the SCP and the SFNF.

Conclusions: The desire and willingness to develop a TFPA project proposal is evident by all parties involved. Challenges remain as to how to staff and fund this project development and implementation. The urgency of addressing the impacts to the Santa Clara watershed has reached crisis status. It will take all the available Tribal, Forest Service and BIA resources to make restoration of this watershed a reality. Time is of the essence. Collaboration is not only essential, it is imperative to moving this project forward. Collectively all parties know what to do, they now need to figure out how to get it done.

Commendations: Michael Chavarria and Sandy Hurlocker are both to be commended for their efforts to get this project up and moving. The relationship seems strong and the will to succeed is evident. It is up to them to move this project forward with the help of regional and national support from all agencies.

Attachments: To be included in final Report

1. Santa Clara TFWA original proposal – June 2010
2. May 13, 2011 Letter from Regional Forester to Governor Dasheno acknowledging the Tribes request and confirming FS commitment to continue the process
3. Santa Clara TFWA proposal update – 2012

Photos: Additional photos with captions will be included in the final report. Current photos are courtesy of Jim Durglo. Nicole Balloffet has also provided several pictures that will be included in the final edition.



View of the Santa Clara Canyon Headwaters area



View of Santa Clara Canyon after the Los Conchos Fire



View of effects of flooding and sediment flow in Santa Clara creek

Mescalero Apache-Lincoln National Forest Site Visit

July 25-26, 2012

Introduction: The Intertribal Timber Council, Forest Service, Bureau of Indian Affairs visited the Mescalero Apache reservation and Lincoln National Forest on July 25-26, 2012 to evaluate the status of the Tribe's Tribal Forest Protection Act agreement with the Lincoln National Forest. This agreement was the first TFPA agreement and continues today. The visit included a meeting the afternoon of July 25 with staff from all organizations involved to familiarize the review team with current staff, discuss the status of the agreement, and identify issues in need of attention. The team also visited projects completed as part of this agreement on July 26.

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Background: Utilizing the Tribal Forest Act Authority, the Mescalero Apache Tribe (MAT) and the Lincoln National Forest (LNF) entered into the Sixteen Springs Stewardship Contract to protect the lands and forest health in Otero and Lincoln Counties in New Mexico. This is the first successful TFPA project in the nation and many lessons can be learned. This contract consists of several forest health improvement treatments. The LNF and the Mescalero Reservation share 30 miles of common boundary on the southern end, 6 miles of boundary on the Southwest and 15 miles on the northern end.

The Sixteen Springs Stewardship Contract is a collaborative effort between neighbors that has furthered the relationship between the Forest Service and the MAT. The MAT had recently gotten involved in the forest planning proposal at a strategic time in the Forest's NEPA process. The MAT was instrumental in building support for the LNF Perk-Grindstone project, a shaded fuel break designed to reduce hazardous fuels and fire risk to the Mescalero Apache Reservation, the Village of Ruidoso, and the Lincoln National Forest. Tribal engagement and support lead to the resolution of planning gridlock between the Forest Service and a local stakeholder group.

The majority of this work is being completed by the MAT Natural Resource Department (NRD) through a Stewardship Contract. To date, 6056 acres and 3.4

miles of road have been addressed through 22 separate task orders, totaling \$6,271,662. Commercial timber removal initially produced raw material for the local MAT sawmill, until market conditions forced closure of both MAT mills. In addition to the benefit to forest-dependent industries, the project was designed to create and maintain local jobs within the tribal and county communities, especially for those with specialized woods working skills. The estimated number of jobs created is 30 over the life of the contract.

The MAT and LNF have worked to cultivate a good relationship that grown over time. The MAT developed credibility and trust for doing good work and the LNF has become supportive of this relationship. However, the MAT is faced with having to work with new Forest Service staff due to frequent personnel changes on the LNF. Transferring corporate knowledge as staff changes occur is essential to efficient project planning and implementation.

The MAT has a large natural resource organization and tries to maintain year round work when possible. The MAT is supporting crews recognized for having diverse skills and being fire fighting “red-carded” so they can undertake both forest work and fire suppression activities. The Tribe is implementing sound landscape resource management on both sides of the boundary. Tribal fuels projects are now coordinated with the Lincoln National Forest.

The Forest and Tribe continue to expand the contract work and were able to take advantage of economic stimulus funding for several years. However, that funding is no longer available and future funding is uncertain.

Funds are needed to maintain the local work force and skills. The LNF is facing budget reductions and the Forest Supervisor is working with the Tribe to identify priorities and seeking additional funds through competitive programs such as the New Mexico Collaborative Forest Restoration program and the National Collaborative Forest Landscape Restoration Program. The Tribe is also trying to diversify the funding (e.g. fire funding) and work (e.g., fuels projects) on and off the reservation.

The current TFPA project is coming to a close and the LNF and the MAT are beginning discussions for a new TFPA agreement.

Observations:

- There was a high level of participation in the site visit from the Forest Service, Mescalero Apache Tribe Natural resource Department and Bureau of Indian Affairs. Unfortunately there was no participation by the tribal government.
- There has been a significant transition in Forest Service staff. In just four years the Forest Supervisor and two district rangers have changed. The tribe and FS seem to be building new working relationships to provide a good foundation for further dialogue.
- Federal grants & agreements & contracts can be complex, with many requirements. Options for grants, contracts and agreements are not well understood by Tribal and BIA personnel. Tribes do not clearly understand all

federal requirements (i.e. Davis-Bacon act), leading to issues and conflict during initial implementation. Issues with the FSAR provisions of the contract have also been an issue for the MAT: Employment of Eligible Workers, Labor Standards for Contracts involving migrant and seasonal agricultural workers, wage and payroll standards etc. These requirements serve as disincentives to cost containment as they restrict performance incentives.

- MAT Involvement in the Perk-Grindstone NEPA planning process was important to successful project implementation. Limited MAT staff resources make expanding this commitment to the Sacramento Mountains landscape daunting at best. Efforts by MAT and LNF leadership to prioritize treatments will be essential to the effective engagement of the MAT in planning LNF projects.
- Several challenges remain that impact the cost effective implementation of TFPA projects. Seasonal closures, access to treatment sites, and ESA regulations (Mexican spotted owl (MSO), checker-spot butterfly) complicate the MAT's ability to plan and schedule treatments to optimize crew effectiveness and control costs. Some ESA regulations affect more than just the local landscape (i.e. 11 Forests with Mexican MSOs are counted together) restricting the LNF flexibility to plan and schedule projects. The MAT has more flexibility in scheduling on reservation projects, thus costs are lower. The LNF ability to move the MAT crew around to different projects offers another option to address seasonal closures due to ESA requirements.
- The issue of treatments costs for MAT crews places additional stress on the relationship between the MAT and LNF. Declining Department of Interior and Forest Service budgets are reflected in the amount of acres being treated for both the MAT and LNF. The LNF is concerned about the cost/acre from MAT to conduct LNF treatments. One-half of the LNF's hazard fuel reduction budget is now going to the MAT TFPA projects. Some LNF staff are concerned that the MAT has the ability to pick and choose task orders and set their price within the larger timber sales and fuels program, adversely affecting the ability of the LNF to treat acres.
- The Sacramento Mountains ecosystem needs a scalable forest product processing infrastructure to utilize products as part of the landscape treatment process. Ideally there would be outlets for sawlogs, posts, poles, clean chips, biomass utilization, heat and power generation, and marketing assistance.
- While treatments are getting done on the ground, there doesn't seem to be consistent alignment between work done on MAT and LNF lands (landscape scale).
- The uncertain situation with the MAT mill is complicating marketing and

treatment of MAT forest products. Restrictions on offering Tribal timber for sale on the open market may be artificially keeping treatment costs high for MAT projects. Current bark beetle kill in large Ponderosa pine is evident on both MAT and LNF lands around Ruidoso. Neither the MAT nor the LNF mentioned any effort to address this situation.

- The recent Little Bear fire consumed 258 structures just north of Ruidoso, providing evidence of the need for both the MAT and the LNF to treat as many acres as possible within their organizational limitations. It also demonstrates the need for home owners to be personally responsible to prepare their property to withstand wildland fire.

Findings/Recommendations:

National:

Finding 1: Consultation needs to occur at all levels within and between organizations, from national to regional to local. There needs to be more accessibility to and involvement of Forest Supervisors in the developing local relationships and guiding TFPA project development.

Recommendation(s):

- Strong partnerships begin with strong leadership guidance and action nationally between participating organizations. The Intertribal Timber Council, Forest Service and Bureau of Indian Affairs should establish a forum to consult about emerging issues and provide clear, consistent guidance.
- Regional consultation sessions should be conducted so Tribes, Forest Service and the Bureau of Indian Affairs have the opportunity to share perspectives and concerns in developing joint priorities and strategies.

Finding 2: The Forest Service culture of move often for career advancement adversely affects regional and local relationships. Turnover in Forest Service staff is widely evident and has a profound effect on building and maintaining relationships.

Recommendation:

- The Forest Service should evaluate their organizational policies to provide opportunities and incentives for staff stability regionally and locally in order to establish and maintain effective working relationships.

Finding 3: There is the need for a strong national Forest Service and BIA general guidance on TFPA, voicing support for TFPA as a national initiative.

Recommendation(s)

- Develop guidance language on TFPA including:
 - Framework: It's about the landscape – crosses borders; threats as well as restoration; trust responsibilities and partnerships with tribes/communities.

- Guidance for when TFPA a good fit. What are the key pieces? (e.g. strong tribal relations manager).
- Recommend building trust and developing an effective working partnership, including an MOU.
- Consider starting with a scalable treatment that could expand over time. Sometimes smaller is better during the discovery phase.
- “Adjacency” as part of the TFPA authority needs to be explored to better understand opportunities and challenges.

Finding 4: Training and technical assistance remains a significant need to help local units understand and implement TFPA projects at all levels within all agencies.

Recommendation(s):

- Complete the four training modules and package them for easy access and participation using modern technology (self directed webinar, online courses, classroom instruction, etc.).
- Develop a cadre of Tribal, Forest Service and Bureau of Indian Affairs specialists who can assist with training and technical assistance in developing TFPA projects for regional and local staff.
- Provide for TFPA training and updates at key agency meetings and associated training sessions.

Finding 5: The current use of contracting instruments (contracts, grants and agreements) does not allow for Tribes and the Forest Service to enter into effective partnership relationships. Tribes are treated as standard vendors rather than partners in developing and implementing cost effective landscape treatments:

Recommendation(s):

- The Forest Service National Office needs to provide clear direction to the field that TFPA is a national priority and that forming true partnerships is the intent. They also need to incentivize local forests and ranger districts to invest the time and resources to make TFPA projects a reality.
- Identifying appropriate instruments that provide the flexibility to establish a true partnership relationship allowing Tribes and agencies to select the most appropriate instrument to accomplish cost effective treatments on the land.
- The ITC, Bureau of Indian Affairs and Forest Service should to investigate the potential to extend PL 93-638 authority for use by the Forest Service. This authority is widely used by DOI

bureaus to enter into self-determination agreement with Tribes. This instrument allows for greater flexibility to accomplish on-the-ground treatments by recognizing Tribal sovereignty and compliance with Tribal laws and regulations. One significant benefit is the ability to recognize Tribal labor laws and benefit packages as valid and governing of tribally implemented treatments, thus waving federal labor/benefit regulations for Tribes.

Finding 6: The Forest Service planning process NEPA compliance is time consuming and cumbersome, often delaying TFPA project implementation for long periods of time (sometimes many years).

Recommendation(s):

- The Forest Service, BIA and Intertribal Timber Council need to figure out how to be more efficient with NEPA at landscape scale so as to expedite project level planning and approval. Consideration should be given to utilizing categorical exclusions and Tribal resource management plans to expedite the process.
- The Forest Service needs to find creative ways of funding, completing NEPA given decreased resources (specialists and funding) available.

Regional:

Finding 1: The region as a whole lacks an effective processing infrastructure to utilize forest products to create value to fund restoration efforts. There is a need for a coordinated interagency effort to collectively market New Mexico forest products. This current situation restricts options to fund and implement active land management across all ownerships.

Recommendation(s)

- The Forest Service and Bureau of Indian affairs should conduct a forest product marketing and facility feasibility study for forested lands in New Mexico to assist National Forests, Tribes and other interested parties to effectively market available forest products. Finding and developing markets is critical to cost effectively managing fire prone ecosystems. Developing markets for goods provides more resources to accomplish needed services. Bureaus (Forest Service and BIA) need to coordinate efforts to identify and develop markets for forest products that assist all partners in cost effectively treating fuels.

- Update the 2008 biomass study for New Mexico to determine biomass volumes and locations available to support a sustainable biomass market.
Seek opportunities to carry out a feasibility study to identify type of facility, location and potential partners for a sustainable venture.

Finding 2: Tribes, the Forest Service and the BIA do not have current, effective Memorandums of Understanding (MOUs) that clearly spell out their relationship, identify common objectives, and the MOU intent to guide their efforts through changing leadership and staff within all entities, over time.

Recommendation(s):

- The ITC, Forest Service and BIA need to develop a MOU template for use in establishing understanding of how the entities will function for the near term (5-10 years) as they consult to address health and restoration issues.
- Individual Tribes and associated National Forests need to conduct government to government consultation meetings to compile a local MOU that can guide development of TFPA and other associated projects.
- The Forest Service, BIA and ITC need to provide facilitative services to local agencies early on to assist the development of local partnership MOUs.

Local:

Finding 1: The MAT and LNF both face declining federal funding, particularly for hazard fuel treatments.

Recommendation(s):

- The Mescalero Tribe, Lincoln National Forest, and Bureau of Indian Affairs-Mescalero Agency need to take advantage of the timing to jointly complete new management plans for both land holdings that identify and address common issues and concerns. This effort will strengthen and reinforce the working relationship, leading to better and more effective land management treatments across landscapes.
- The BIA, MAT and LNF should investigate alternative mechanisms to fund restoration projects within the Sacramento Mountains include timber sale revenues (goods for services), non-federal grants and CFLRP funding.

Finding 2: The closure of the MAT mill is a real obstacle for continued, effective restoration efforts in the Sacramento Mountains. The ability to treat landscapes is highly dependent upon marketing of commercial forest

products to generate “goods” to offset the cost of “services”. At this point in time Tribal timber is not sold internally to the MAT mill or to external markets. This occurs at a time when the LNF is able to sell its entire annual allowable sale quotient (6MMBF). Even the timber being offered off of the TFPA (16-Springs) has been sold outside of MAT.

Recommendation(s):

- The BIA needs to review the current MAT timber allocation agreement to determine the potential for the BIA to sell Tribal timber sales on the open market as a means to remove excess commercial volume to generate stumpage value for the Tribe. The BIA and MAT DNR should consult with the MAT leadership about the potential to market forest products and use a portion of the stumpage for forest restoration treatments to address forest health issues.
- The BIA need to review the MAT mill’s business model to see if any changes could occur to improve mill efficiency and revenue stream.

Finding 3: The current TFPA agreement between the MAT and LNF is scheduled to expire next Year. The MAT and LNF are also beginning review and development of their forest resource management plans

Recommendation(s):

- Both parties should take advantage of this opportunity presented to coordinate the LNF and MAT planning processes to discuss options/opportunities for landscape level planning and to identify the next TFPA project (s).
- Recommendation: The LNF and MAT should review the work done under this current TFPA agreement to determine if it met LNF objectives and MAT expectations. Efforts should commence to discuss the future of this relationship and to clarify joint objectives for the shared landscape. Identification of “desired conditions”, discussion on how to best achieve those conditions, and the value of having a local TFPA partner to make this landscape restoration reality possible.
- Memorandum of Agreements or Understanding need to be developed and written that clearly outlines who participants will be, their roles and responsibilities, meeting schedules, and goals of the MAT and LNF.

Finding 4: There seems to be a lack of local public awareness about the current MAT/LNF TFPA projects and their impact on local forest health conditions and.

Recommendation(s):

- Developing an effective public relations effort to demonstrate the success of existing projects and emphasizing the good working relationship between the MAT and LNF could provide the basis for a broader, more inclusive local collaborative.
- The Mat and LNF should jointly develop success stories that document the TFPA work on the LNF to address forest health concerns. This story needs to be shared and circulated locally to demonstrate to stakeholders that land treatments are happening on a regular basis and that they are effective.
- The USFS, Tribes, ITC should develop a strategy to distribute and share success stories widely through multiple media sources including newsletters, websites, public meetings and other media.

Finding 5: Stop number three on the tour was somewhat disappointing as the silvicultural prescription did not seem to meet either fuels reduction or stand restoration objectives. The Mexican Spotted Owl (MSO) diameter limits were imposed on the stand when no MSO PAC was present on site, resulting in a stand that was still overstocked and contained ladder fuels throughout. This stand did not “dovetail” with the treatment on the MAT side of the fence.

Recommendation:

- The LNF Silviculturist should review of all aspects of vegetation treatment prior to NEPA, and continue monitoring through layout and treatment to make sure implementation meets LNF objectives for stand treatment and are compatible with MAT treatments.

Conclusions: The MAT and LNF have been instrumental in implementing the first TFPA project in the nation, testing the waters for application of TFPA at other locations. Their efforts identified issues and concerns and developed solutions that will have far ranging impacts and benefits to others utilizing this act. The staffs have survived multiple changes in personnel, maintained effective working relationships, and continue to move forward with this project. The future of TFPA here depends heavily on the ability for both partners to account for all the benefits/goals of TFPA (social and economic benefits) as they make future plans to provide effective landscape treatments for the Sacramento Mountains.

Commendations: Thora Padilla and Robert Trujillo have played key leadership roles in guiding their staff to understand and implement this TFPA project. Their leadership will be even more important as they adapt to tighter budgets and

increasing needs to effectively treat the landscape in the Sacramento Mountains. They and their staff are to be commended for making this project a reality.

TFPA Site Visit: Tule River Tribe and Sequoia National Forest

Introduction: A review team from the U.S. Forest Service (FS), Intertribal Timber Council (ITC) and Bureau of Indian Affairs met with members from the Tule River Tribe (TRT) and Sequoia National Forest (SNF), personnel on July 30, 2012 as part of an ongoing analysis of the Tribal Forest Protection Act (TFPA) implementation. The visit began with an overview meeting at the Springville Work Center, Springville, CA, followed by a field trip to three sites on a proposed TFPA project on the Western Divide Ranger District (WDRD) in the Giant Sequoia National Monument, Sequoia NF.

Participants:

Review Team:

- Kara Chadwick, Assistant Director, Forest Management, USDAFS/TFPA Coordinator, 202-205-1667, kchadwick@fs.fed.us
- Jim Erickson, ITC Fire Technical Specialist, 509-633-1067, jerickson@couleedam.net
- Thora Padilla, Program Manager, Mescalero Apache Tribe, thora@mescalero.dmp.net
- John Baskette, Regional Timber Sales Officer, BIA, 916-978-6880, John.Baskette@bia.gov
- Dirk Charley, Sequoia National Forest Tribal Relations Program Manager, 559-297-0706, dcharley@fs.fed.us
- Doug McKay, Acting Regional Tribal Relations Program Manager, 559-297-0706, dmckay@fs.fed.us

Background:

- Established in 1873, the Tule River Indian Reservation is estimated to cover almost 85 square miles of rugged foothill lands of the Sierra Nevada Mountains, sharing a northern portion of the boundary with the Western Divide Ranger District, Sequoia National Forest.
- The SNF and the TRT have a history of working together and meeting regularly to discuss issues.
- FS and Tribal staff provided oral and written history on the on Tule River Reservation Protection Project (TRRPP). The project arose as a result of several wild fires that burned through the area, on both Tribal and National Forest System (NFS) lands:
 - July-September 2002: McNally fire threatens Tule River reservation. Burns 150,000 acres of national forest and private lands.
 - October 2003: Cedar fire starts on Forest Service lands and burns over Barona and Viejas reservations in Southern California, structures lost and one fatality.

- July 2004: The 108th Congress passes P.L. 108-278, the “Tribal Forest Protection Act” authorizing Tribes to propose actions on neighboring federal lands (FS and BLM) to address threats from wildfire, insects and disease, or to restore forest ecosystems.
- October 6, 2004: TRT Council sends letter from Chairman Neil Peyton to Art Gaffney, SNF Supervisor announcing the Tribes’ desire to utilize the TFPA authority to address hazardous fuels issues along the Tribal/Forest Service boundary.
- August-October 2005: TRT and SNF conduct a series of meetings to discuss the development of a TFPA project on the Sequoia National Forest/Monument lands that border the northern reservation boundary.
- November 1, 2005: The TRT Council formally submits the “Tule River Reservation Protection Project” (TRRPP) to Art Gaffney, SNF Supervisor. The proposal identifies threats from Forest Service lands to adjacent Tribal lands and the reservation community, particularly wildfire, insects and disease.
- November 23, 2005: Bernard Weingardt, USFS Region 5 Forester submits letter of support to SNF Supervisor.
- 2006: TRT begins to focus fuel reduction and forest health treatments on Tribal lands bordering the proposed TFPA project area in order to complement the planned work on NFS lands.
- September 2, 2006: TRT hosts a field trip for all interested public to visit Tribal treatments and proposed treatments on the Sequoia National Monument.
- August 26, 2008: The SNF issues a “Notice of Intent to prepare an environment impact statement for the TRRP project”.
- February 2011: MOU between the TRT and the SNF was signed. One of the objectives of the MOU is for both parties to assist in development of projects to achieve mutual goals of community and resource protection. TRRPP is mentioned in the MOU.
- 2012: Kevin Elliot, SNF Supervisor makes the Tule River Reservation Protection Plan” (TRRPP) one of the Forest’s top three priorities. The forest is in the process of finalizing the alternatives. There will be a Draft EIS to be put out before the end of the 2012 calendar year.
- The TRRPP is located in a Sequoia Grove, which brings its own set of social issues. There appears to be a social constraint from conservation groups that “the smaller the diameter – the greater trust and the larger the diameter – the less trust”. As a result, in order for NEPA for projects to be completed in a timely manner, the WDRD proposes projects that do not remove the larger component, but may not fully meet the ecological needs of the Giant Sequoias

- and its ecosystem. Removal of ladder fuels and associated fuels are important to meeting ecological needs of the sequoias and associated species.
- The TRRPP proposed action identified 1,400 acres of treatment; including fuel breaks placed in strategic locations on ridge tops along the common boundary between the reservation and SNF. Treatment was to occur on both Tribal and FS lands within the fuel break.
 - Both Tribe and FS personnel share concerns about other threats to the Sequoia National Monument and the Tule River reservation including insect infestation, bark beetles; various diseases (there is a fair amount of armillaria- a fungus that kills roots of trees -redwood threat); and the problems with air pollution and climate change.

Observations:

- The TRT and SNF personnel have been working together for years and it was vocalized that it seemed “odd” that we needed to pass legislation in order for Tribes and FS personnel to work together.
- In spite of that, nearly seven years after the Tribes’ official request, this project is still in the planning phase, though no firm date for implementation has been identified, the SNF Supervisor has made it a priority for 2013.
- Both the TRT and the Forest Service place this project as high priority to move forward into the Treatment phase.
- Typically all projects proposed on this forest and in this region are appealed and/or litigated when they call for trees of any size to be cut.
- Both TRT and SNF personnel recognize the need for active management to restore the health and protect resource values within the Sequoia National Monument and on the Tule River reservation.
- Both parties recommend the reduction of stocking and ladder fuels in order to protect the remaining giant sequoias on this landscape.
- Long Canyon (lower reaches of the Sequoia National Monument) has not had a recorded fire in over 100 years, while the typical fire frequency is 7-10 year intervals. This situation presents unprecedented risk to the remaining giant sequoias due to overstocking and ladder fuels that place the crowns of the giant sequoias at risk.
- Current fuel treatment cutting diameter on the Sequoia National Monument is limited to 12 inches and smaller for fuel treatments and 20 inches and smaller for commercial thinning operations.
- The local ecosystem is at risk from significant variables including bark beetles, fir engravers, root rots, Douglas-fir tussock moth, climate change, and air pollution.

- The sequoias are very important to the tribe culturally; their sacredness serves as a ladder to heaven.
- Turnover of FS personnel has been an issue for continuity in the NEPA process.
- New District Ranger, Rick Stevens, comes with a proactive perspective and willingness to address the local challenges.

Findings/Recommendations:

National:

1. Finding: Whether a TFPA project is a priority appears to vary by Region/Forest; TFPA projects must fit within the local forest annual work plans and then compete for funding with all other projects.
 - a. Recommendation: The Washington Office should reiterate the importance of TFPA through a letter to the field along with the recommendations that result from this TFPA review.
2. Finding: The National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) can create additional survey, documentation and extend time for the USFS to complete project planning in a reasonable and timely manner. Scheduling of project implementation is critical to sustaining a viable local wood product infrastructure that is essential for all land managers to achieve cost effective treatments.
 - a. Recommendation: The Intertribal Timber Council and its member Tribes should consider developing an amendment to the TFPA that provides an expedited time line and processes to address the concerns of NEPA and ESA on all TFPA proposals, with a focus on moving project planning, review and approval forward leading to on-the-ground implementation.

Regional:

1. Finding: Prior appeals and litigation impact projects on the forest, resulting in extended timelines. Specifically for this the TRRPP, additional project analysis requirements have extended the project planning process leading to “Planning and Implementation delays, added planning requirements and costs, and frequent appeals and litigation from stakeholder groups”. The TRRPP was initiated in 2005, yet there is still no firm commitment date for completion of the environmental impact statement and a Record of Decision. Project

implementation cannot be predicted or scheduled. The SNF Sequoia National Monument and TRT resources remain at risk from wildfire and other disturbance agents.

- a. Recommendation: The Forest Service Washington Office should provide clear, consistent expectations and guidance on how to move projects forward in a timely manner.
- b. Recommendation: The Regional Office can provide guidance and support to National Forests on how to most effectively comply with federal NEPA and ESA regulations in a timely manner so project implementation can be effectively scheduled and projected.
- c. Recommendation: The Intertribal Timber Council and its individual Tribes should provide support of tribally sponsored TFPA projects on Forest Service lands that meet and address their concerns for forest restoration and sustainability by sharing their concerns in public forums and media outlets.

Local:

1. Finding: The Forest and District are dedicated to moving this project forward, however, different tactics and actions need to be implemented for bringing this project to the implementation stage. The appeals and litigation gridlock faced by the SNF will likely continue to result in no action following the current SNF planning practices. The Tule River Tribe provides a working example of healthy ecosystems for their neighbors and could provide an alternative planning process.
 - a. Recommendation: The SNF and WDRD need to identify and commit to a firm timeline to bring this project to a Record of Decision (ROD) that triggers appeal, litigation, or implementation.
 - b. Recommendation: The Tule River Tribe should take a proactive position to help sell their management culture, style, and philosophy to the greater public as a means to demonstrate good active management and their relationship with the land. Sharing their creation stories, land management ethics and management style story publically could provide needed support for Forest Service planning and implementation of landscape restoration.

- c. Recommendation: In an effort to provide consistency for the project planning and interject TRT credibility into the process, the SNF should consider contracting some or all of NEPA to the Tribe and to potentially garner public awareness and support for the TRRPP.
2. Finding: TFPA projects face planning and implementation delays due to career movement of FS personnel from one location to another. Disruption in the continuity of personnel affects both consistency in product development and credibility of project quality. Local stakeholders continually have to build new relationships with FS personnel.
 - a. Recommendation: The FS is well aware of the effect personnel turnover can have on project planning and implementation and in relationships with tribes, partners, stakeholders, etc. However, movement of personnel can be beneficial as new employees bring different perspectives to the table (e.g., Rick Stevens brings a new perspective to the District/Forest/Region and may have new ideas on how to implement the FP and related laws/regulations).
 - b. Recommendation: Having a Memorandum of Understanding between the Tribe and FS will facilitate communications and ensure agreements during transition.
 - c. Recommendation: Well documented tracks on projects and use of central filing (O:drive) will also facilitate transition for project planning and implementation.

Conclusions: This project appears to be going through the motions of historic Forest Service projects and seems doomed for failure. Different tactics and actions need to be implemented if different outcomes are to be expected. The Intertribal Timber Council, Forest Service and Bureau of Indian Affairs need to collectively develop a national strategy to improve the process for TFPA project planning and implementation.

Commendations: The Tule River Tribe is to be commended for implementing proactive treatments on their lands as a measure to protect their sequoia ecosystems and provide examples of sound active land management. Hopefully their actions will preserve some of the treasured sequoias within these landscapes. Kevin Elliot should be commended for making this project one of his top forest priorities. Rick Stevens and his staff should be commended for their perseverance in pursuing this project despite difficulties of getting the TRRPP project through NEPA.

Attachments:

Photos:



Giant Sequoia National Monument: Treasures worth saving. July 2012



Giant Sequoias – Sequoia National Monument. July 2012



Long Canyon on the Sequoia National Monument: Extensive fuel buildup due to lack of fire and active management. July 2012

TFPA Site Visit: Warm Springs Tribe and Mount Hood NF

Introduction: A review team from the U.S. Forest Service (FS), Intertribal Timber Council (ITC) and Bureau of Indian Affairs (BIA) met with members of the Confederated Tribes of the Warm Springs Reservation (Tribe) and personnel from the Region Six Regional Office and the Mount Hood National Forest (MHNF) on August 1, 2012. The team visited the proposed Cascade Crest Fuels Break project designed to establish a shaded fuel break on the National Forest that would provide a defense position for fires originating on the national Forest and burning eastward toward the reservation (projected local fire spread pattern).

Participants:

Review Team:

- Kara Chadwick, Assistant Director, Forest Management, USDAFS/TFPA Coordinator, 202-205-1667, kchadwick@fs.fed.us
- Jim Erickson, ITC Fire Technical Specialist, 509-633-1067, jerickson@couleedam.net
- Thora Padilla, Program Manager, Mescalero Apache Tribe, thora@mescalero.dmp.net
- Dale Sebastian, NW Regional Forester, Bureau of Indian Affairs, 503-231-6802, dale.sebastian@bia.gov

Background:

- The Mount Hood National Forest is covered under the Northwest Forest Plan, which mandates diameter limits in order to maintain many forest stands in late successional condition, along with other restrictions and various monitoring requirements.
- The MHNF established a Memorandum of Understanding (MOU) with the Tribe in 1997. This MOU set the framework for a working relationship to manage huckleberry resources on the MHNF. The MOU also provides the framework for addressing roots, access, timber planning, recreation, and law enforcement issues to be discussed and addressed.
- 2000 and 2004: Harmony workshops held by the Tribe to provide USFS and BLM a better understanding of the culture and history of the Confederated Tribes and to help agency staff work more effectively with the Tribes in natural and cultural resource management.
- January 2006: The Tribe and National Forest entered into a second MOU to address forest restoration and fuels management on 8,000 acres of National Forest lands annually to reduce hazardous fuels, restore forest health, minimize the risk of catastrophic wildfires impacting tribal resources, and provide a steady supply of biomass to the proposed Tribal biomass facility. Due to delay in the NEPA process no implementation has occurred.

- The Tribe submitted a letter in 2007 requesting a TFPA project on the Mount Hood National Forest to reduce the risk of wildfires burning from the National Forest onto the reservation. The project was titled the “Cascade Crest Fuel break” proposed implementation entirely on Forest Service lands to buffer an area of high lightning incidence on the National Forest from moving onto Tribal lands and damaging resources.
- 2008-2010: The environmental assessment was completed in 2008 and the Record of Decision (ROD) was signed in 2010. Oregon Wild (environmental group) appealed the project’s 2010 ROD. The Tribe then backed out of their TFPA request to avoid outside litigation. The Regional Forester then withdrew the project to avoid potential litigation. In the meantime, survey and manage requirements under the Northwest Forest Plan came into play. The project would have been fully funded by timber receipts had it been implemented on schedule. Implementing a project of this nature today would take extended time to plan (due to new court required survey requirements and management guidelines) and implement. New restrictions would require agency funding to implement in addition to any revenues generated off the project.
- The Tribe is still interested in projects designed to stimulate huckleberry production on National Forest lands.

Observations:

- It is unclear whether the Tribe has a desire to utilize TFPA or not at this time.
- The Region/MHNF has committed to treatment in the September 2011 letter from Kent Connaughton, USFS, and Edward Shepard, BLM, committing to 8,000 acres of treatment on Forest Service and BLM lands per year for forest and range restoration and fuels reduction projects within the geographic scope of the 2006 MOU. These projects would yield approximately 80,000 bone dry tons (BDT) of biomass per year for a Warm Springs cogeneration plant. At this time it does not appear this project is moving forward.
- Any efforts to initiate a TFPA project will have to be inserted into the National Forest program of work competing for time, personnel, resources and funding for implementation. Timber receipts are an unlikely source of funding under the current scenario.
- The Forest Supervisor is new to his position and committed to working with the Tribe. He raised the idea of getting together with Tribe to work on a 5 year plan.
- In areas where Forest Service and Tribal personnel have an established working relationship, the TFPA does not seem to facilitate projects; i.e., the

TFPA does not include a categorical exclusion clause or include language for expediting any part of the NEPA/Appeals/Litigation process.

Findings/Recommendations:

National:

Finding: Project planning on the MHNF has evolved into a monumental effort consuming tremendous staff and financial resources on projects that typically end in appeal and/or litigation.

- a. Recommendation: The Intertribal Timber Council should consider sponsoring legislation to amend TFPA to include streamlined NEPA and ESA review using categorical exclusions for individual projects not to exceed 10,000 acres.
- b. The FS Regional office should provide support/guidance to Forests regarding NEPA efficiencies/streamlining/dealing with appeals/litigation

Local:

1. Finding: The Warm Springs Tribe has not proposed a new TFPA project; there are no TFPA projects identified in the Forest Service scope of work.
 - a. Recommendation: The Warm Springs Tribe and the Mount Hood National Forest consider initiating regular (minimum annually) consultation sessions to develop an overarching Memorandum of Understanding that lays out a long term strategy to address areas of common interest, including leaders intent and protocols for doing business on a landscape basis that endures changes in leadership by either party.
 - b. Recommendation: The Warm Springs Tribe and the Mount Hood National Forest resource staffs meet regularly to identify common landscape goals and objectives that can guide future project selection, development and implementation.
2. Finding: Frequent personnel changes in leadership positions adversely affect the continuity of dialog and awareness of joint objectives for Forest Service and Tribal staff.
 - a. Recommendation: The Warm Springs Tribe and the Mount Hood National Forest should develop protocols for initiating and maintaining regular communications and institutionalizing relationships between FS and tribes that will endure changes in personnel and leadership; possibly incorporate in MOU for long-term commitment.

Conclusions: It is unclear at this time what the Warm Springs Tribe's degree of interest in pursuing specific TFPA projects on Forest Service lands is. The Warm Springs Tribe and Forest appear to have a strong working relationship with or without TFPA. Perhaps if TFPA were amended to include language that would aid in facilitating the NEPA process, use of this Act would be more attractive to the Tribe. The prior biomass project seems to be on hold.

Commendations:

- Mt. Hood planning staff for their efforts to plan and implement hazardous fuel treatments.
- Kent Connaughton and Edward Shepard for committing to provide biomass to the Warm Springs Tribe for a ten-year period.

Attachments:

- 2006 Memorandum of Understanding: Warm Springs Tribe – Mount Hood National Forest
- 2011 USFS and BLM letter of commitment to provide of biomass for ten years.

Annotated Tribal Forest Protection Act Site Visit Report

Group	Date: August 6, 2012 Location:
USFS R6 HQ Gifford Pinchot National Forest	USFS R6 HQ PNW Conference Room 6 th Floor Regional Office 333 SW First Avenue Portland, Oregon

Author: TFPA Interview Team

Interview Team: (* lead)	Participants
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Site Visit Objectives:

Phase 3 comprehensive objectives include:

1. Assess the level of awareness of the Tribal Forest Protection Act at the local level between Tribal, BIA and Forest Service personnel.
2. Identify what is working, why and how, e.g. are there TFPA projects or other means of addressing any threats?
3. Discuss what isn't working as well as it should, e.g., what are the challenges and how are they being dealt with?
4. Review any lessons learned and recommendations of what can be done better in the future, at local, regional and national levels.

Note: These objectives should be customized as appropriate to the specific issues and opportunities identified in Phase 2. Refer to background papers and interviews.

Key Take Home Messages:

- FS concerned about use of the TFPA center around time and budget.
 - What's the payoff for FS investment? Would TFPA increase the efficiency or otherwise reduce the costs of FS management and administration?
 - Would tribal involvement reduce risks of appeal and litigation?
 - Are efforts to increase awareness of, and appreciation for, tribal natural resource management needed?
- Joint tribal-FS training needed to improve use of TFPA authority (perhaps, web-based?). HQ and R6 staff will be essential to help National Forests work TFPA projects through FS administrative processes and protocols, and identify tools (cooperative agreements, stewardship contracting, fee for service, etc) most appropriate for implementation.

Notes:

- R6 HQ, and Gifford Pinchot (GP) staff lack familiarity and experience with TFPA, but expressed receptiveness to learning more about it.
- GPNF requested interest from the Yakama Tribe in Oct 2008 to utilize TFPA to participate in stewardship thinning to restore huckleberry habitat. The tribe declined to participate in the implementation.
- No TFPA proposals had been received by GP and no tribes had requested use of the TFPA authority.
- USFS staff unsure what TFPA authority brings to the table; other existing authorities were available which could be used to accomplish the work on the ground. Seem to lack appreciation that TFPA enables tribes to bring forward proposals to treat FS lands to address their concerns, and enables use of best value and sole source authorities.
- "FS Rumor mill" - excessive costs of treatment in R3 under TFPA.
- Conditions on GP are posing risks to tribal rights and resources.
- GP shift from project to landscape focus, but ESA constraints are limiting the ability to manage the land (LSRs, NSO).
- "White hat" projects are not a problem, but litigation is a major concern. Leads to risk adverse behavior, undertake "safe" projects, particularly those that are likely to precipitate appeals and litigation. Additionally, concern for expending scarce funding for planning to perform NEPA/EIS analyses that would not relate directly to accomplishment of FS mission. Failure to achieve targets can have multi-year consequences for district/forest budgets.
- Tribal relations: (1) mostly focused on huckleberries and fish to address cultural concerns; (2) some economic opportunity, such as bough removal can be helpful to further FS goals for early seral management; (3) tribes have

brought welcome information, insight and expertise to the table; (4) public lacks understanding and appreciation for natural resource management by Yakama Indian Nation (YIN), but some YIN prescriptions, while suitable and appropriate for YIN, would be hard for FS to utilize within its own operations.

Follow-Up Needed: No.

Annotated Tribal Forest Protection Act Site Visit Report

Group	Date: August 7, 2012 Location:
Yakama Nation	Yakama Agency BIA Conference Room 401 Fort Road Toppenish, WA

Author: TFPA Interview Team

Interview Team: (* lead)	Participants
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Bill Timko, Deputy Director, Washington Office Forest Management (202-253-2856), btimko@fs.fed.us	

Site Visit Objectives:

Phase 3 comprehensive objectives include:

5. Assess the level of awareness of the Tribal Forest Protection Act at the local level between Tribal, BIA and Forest Service personnel.
6. Identify what is working, why and how, e.g. are there TFPA projects or other means of addressing any threats?
7. Discuss what isn't working as well as it should, e.g., what are the challenges and how are they being dealt with?
8. Review any lessons learned and recommendations of what can be done better in the future, at local, regional and national levels.

Note: These objectives should be customized as appropriate to the specific issues and opportunities identified in Phase 2. Refer to background papers and interviews.

Key Take Home Messages:

- Yakima Nation (YN) concerned around use of the TFPA center around time and budget.
 - What's the payoff for YN investment to try to make something happen?
- There is good potential for a collaborative FS-YN relationship, which could include TFPA and other authorities (CLFRP, stewardship contracts, fees for service agreements, etc.). YFP provides sorely needed infrastructure and YN's expertise in management and field operations could complement FS research expertise. YN would need to take the initiative and prepare a TFPA proposal in order to precipitate formalization of such relationships.
- YN concerned about FS capacity to manage, particularly with respect to operational expertise and experience. YN is "shovel ready" with capabilities to act on short notice. In contrast, YN sees FS as being paralyzed and prone to talking, collecting data, and analysis but not doing.
- YIN has not aggressively pursued TFPA proposals, seeming instead to passively wait for FS to see the light and invite proposals from YN. YN is experiencing frustration with in the process. If TFPA is to move forward, YN will need to be more assertive and prepare a specific proposal for FS consideration – perhaps a proposal of a large scale project with O-W providing logs for Yakama Forest Products, employment for tribal members, and goals for ecological restoration?
- Joint tribal-FS training would help improve use of TFPA authority.
- There is a need for mutual advocacy – someone from YN and someone from FS need to be committed to making TFPA work.

Notes:

- YN has extensive ceded lands that encompass much of the Cascades from the Columbia River to Canadian Border, including the Gifford Pinchot (GP) and Okanogan-Wenatchee (O-W) National Forests.
- YN has not submitted a specific TFPA proposal to either GP or O-W. GP interactions have focused on cultural resource management, huckleberries, and fish. Vague recollection of a YN letter of inquiry to O-W regarding TFPA, but unable to recall details.
- Too much talk with little action. YN has expended a great deal of effort in trying to work with FS and the Tapash Collaborative, with little to show for it.
 - YN concerned about operational within FS. Too much time and resources tied up in planning, administrative processes, agency

deliberation over uncertainty, and research. FS falling victim to paralysis by analysis, lacking experience and agency capacity to take action when needed. People with practical know how and ability to implement management actions within FS are scarce and getting scarcer.

- YN feels there are lots of capable people within FS and relations with FS appear collegial.
- Appeals/Litigation potential is not a concern for projects undertaken by O-W, but potential for gridlock is much greater on GP.
- Land ownership patterns and loss of forest industry infrastructure has reduced public concern for deteriorating forest health conditions. Will it take a crisis (loss of life and property) to precipitate public pressure to force FS to take action?
- Main areas of YIN interest in TFPA:
 - Jobs and entrepreneurial opportunity for tribal members. YN loggers, truckers, fire crews available and eager for work.
 - Substantial supply of logs (several million feet over multiple year) to augment tribal timber supply for Yakama Forest Products. Because of forest restoration emphasis, upstream influence on YN watersheds, species mix and YFP mill location, O-W is a much better fit than GP.
 - Treating the land at a sufficient scale to address forest health concerns (wildfire, insects, and disease, particularly in dry pine/fir stands – YN is very concerned that conditions on FS lands are ripe for catastrophic fire which could prove devastating to YN lands and rights), including traditional uses, fish and wildlife on FS lands.
 - YN concerned about O-W presenting maps of polygons identifying proposed treatment areas on a post-facto basis. YN desires early engagement with FS helping to identify needs and design treatments from the outset (cited example of an invitation from GP to bid on a (high-elevation alpine fir sale, without understanding that the logs weren't of sufficient quantity/quality to be of economic value).
 - A tribal TFPA proposal would not need to include a lot of specific detail. Basically, the area and conditions covered, the desired outcome – “there are the conditions we want to attain”, the approach – “this is what we propose to attain the desired conditions”, address topic in FS manual guidance on TFPA, and support of YN leadership. FS would have to respond within 120 days.

Criteria for TFPA projects include: 1. The Indian forest land or rangeland borders on or is adjacent to land under the jurisdiction of the Forest Service; 2. The Indian forest land or rangeland is under

the jurisdiction of an Indian tribe or of a tribal community of a federally recognized tribe; 3. The National Forest System land either poses a threat to the Indian forestland or rangeland or a tribal community; or the land is in need of land restoration activities; 4. The activities proposed in the project are not already covered by a stewardship contract or other instrument that would present a conflict on the subject land; and 5. The National Forest System land described in the application of the Indian tribe involves a feature or circumstance unique to that Indian tribe, including treat rights, biological, archaeological, historical, or cultural circumstances.

- YN views of adjacency tied closely to ceded areas and ecological interactions of activities on FS lands that would affect resources of concern to YN (e.g., water, fish, wildlife).

Follow-Up Needed: No.

Tribal Forest Protection Act Site Visit Report

Group	Date: August 7, 2012 Location:
Okanagan-Wenatchee National Forest	Naches Ranger District Conference Room 10237 Highway 12 Naches, WA 98937 509-653-1401

Author: TFPA Interview Team

Interview Team: (* lead)	
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Site Visit Objectives:

Phase 3 comprehensive objectives include:

9. Assess the level of awareness of the Tribal Forest Protection Act (TFPA) at the local level between Tribal, BIA and Forest Service personnel.
10. Identify what is working, why and how, e.g. are there TFPA projects or other means of addressing any threats?
11. Discuss what isn't working as well as it should, e.g., what are the challenges and how are they being dealt with?
12. Review any lessons learned and recommendations of what can be done better in the future, at local, regional and national levels.

Observations/Conclusions/Recommendations:

- The Okanogan-Wenatchee National Forest (O-W) has not received a TFPA proposal from Yakama Indian Nation (YIN), but has been approached by Colville Tribes. The O-W was unaware of 2005 YIN letter regarding TFPA; reemphasizing the need to address frequent turnover of FS staff. Training using web-based modules would be most efficient and flexible way to train TFPA principles.
- General relationships with tribes:
 - The O-W experience with YIN has centered heavily around fish and road issues.
 - Colville Tribe interest has included timber supply as well as ecological functions.
- The O-W lacks experience and familiarity with TFPA. They are uncertain as to protocols and chain of command within FS for consideration of TFPA proposals.
- What's the payoff for the O-W investment to pursue TFPA? Improved administrative efficiency in planning and administration? Would TFPA make administration better, faster or cheaper?
 - The O-W is very concerned about funding to support planning functions (constraints on use of CFLR and other monies)
- There is good potential for collaborative relationships with both Yakama and Colville.
 - The Colville mill closure reduces infrastructure for processing (40-60 MMBF annual supply of timber from O-W).
 - Years of experience working with Colville forest-related businesses gives O-W confidence in tribal capabilities.
 - The O-W relationships with the YIN appear good. The YIN has interest in securing sole-source agreements with the O-W, but is uncertain where FS authority lays for large scale TFPA projects within the FS R6.
- Concerns with TFPA
 - Definition of "adjacency" – within one township?
 - Uncertainty about the authority to enter into sole-source agreements with tribes, particularly since so many bidders from Westside (Burlington, Darrington, Snohomish, Blue Mountains, Kettle Falls, etc –this market diversity poses challenges for ensuring that FS would receive "fair market value" if they were to enter into sole-source

agreements with tribes. Because of geographic proximity, Colville and Yakama mills should have a competitive advantage that would be reflected in higher bid prices.

- Joint tribal-FS training would help improve use of TFPA authority.
- The O-W staff expressed no hesitation in working with tribes to address issues relating to use of the TFPA.

Notes:

- The O-W understands the value and need to work with YIN because of treaty rights, ceded areas, and natural resource issues. With the YIN, interactions tend to be dominated by fish-related concerns, with other resource issues receiving less interest. With Colville, shared borders provide opportunity for collaborative partnerships in resource management and support of tribal mill enterprises. General working relationships appear cordial and collegial, but the process appears to be suspect as to how much substantive influence tribal “input” has in determining active management on O-W lands to reduce threats and restore resiliency to the land.
- The O-W management is focused on strategic restoration of ecological functions, relying on modeling and data analysis to prioritize treatment of polygons with largest “deviations from historic norms”. Process appears very intensive and costly, with intimate involvement of PNW Research Station (which has largely defused controversies over science). This approach has reduced appeals/litigation. Roads and aquatics are the areas where the most information is needed for strategic restoration. Funding for monitoring, including survey and management requirements under the NW Forest Plan, is of concern.
- The O-W is in the midst of revising its 22-year old forest management plan creating an opportunity for tribal engagement. How this will proceed is unclear. Commitment to provide opportunities for substantive tribal engagement in development of forest management plans and planning for project priorities and approaches prior for implementation is uncertain.
- The O-W is concerned that tribes aren’t being proactive enough, not recognizing or appreciating the lead time required to work things through the FS processes. Cited example, if YFP encounters timber supply crisis, FS would be unable to react immediately – at a minimum a 2-year turnaround time should be expected.
- Depressed timber markets and infrastructure loss has repercussions for FS operations. Reduced income from timber and stumpage sales is affecting availability of retained receipts to provide FS flexibility in operations.
- The O-W recommendations for improving utilization of TFPA:
 - Training (joint preferred) to learn about the TFPA and administrative processes (particularly regarding sole source, exemption of Indian

timber from export substitution restrictions – GSM provided to Woolley and Beck 8/7)

- Share success stories
- Administrative guidance – especially regarding adjacency issue and sole source contracting authority
- “Analyze big, act small”. Look at restoration over large areas, but start with small projects to build relationships over time as experience and comfort for both tribes and FS is gained.
- Seek opportunities for reducing costs of management. Are streamlining efforts, such as categorical exclusions for TFPA feasible?
- Provide funding for planning, particularly to cover costs of NEPA processes.

Follow-Up Needed: Provide information on exclusion of tribal timber from export substitution restriction – done 8/7.

Tribal Forest Protection Act Site Visit Report

Group	Date: August 8, 2012 Location:
Colville Confederated Tribes	Confederated Tribes of the Colville Reservation Nespelem, WA 99155 (509) 634-2249 (w)

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Site Visit Objectives:

Phase 3 comprehensive objectives include:

13. Assess the level of awareness of the Tribal Forest Protection Act (TFPA) at the local level between Tribal, Bureau of Indian Affairs (BIA) and Forest Service (FS) personnel.
14. Identify what is working, why and how, e.g. are there TFPA projects or other means of addressing any threats?
15. Discuss what isn't working as well as it should, e.g., what are the challenges and how are they being dealt with?
16. Review any lessons learned and recommendations of what can be done better in the future, at local, regional and national levels.

Key Take Home Messages:

- The conditions of neighboring NF health is of major concern to the Colville Confederated Tribes (CCT), especially along the northern boundary with the Colville National Forest (CNF) and Okanogan-Wenatchee National Forest (OWNF) for wildfire, insects (spruce bud worm and mountain pine beetle), disease, failure to provide for cultural resources, access to traditional foods and medicines, protection sacred sites, and access to water, fish & wildlife resources). (In addition to general obligations of the FS to respect trust responsibilities to tribes, Farm Bill provisions could provide for Tribal access to special traditional forest products and for cultural practices.. The Washington Department of Natural Resources (WDNR) is preparing to declare a forest health emergency in the area near the Colville NF due to the recent blow down. The CCT may join this declaration.
- The CCT has not made a formal TFPA proposal to the CNF, but did initiate a TFPA request for the Lost and Spatch project areas on the Okanogan-Wenatchee National Forest in Nov 2007, These proposals involved a stewardship contract that would provide access to logs for the Colville tribal mills. When the mills closed, the CCT was no longer interested in pursuing these projects, so the projects were marketed as advertised timber sales. The CCT has repeatedly provided comments during the CNF Forest Plan revision process, expressing interest in utilizing the TFPA to address concerns over deteriorating forest and ecological health. No written response has ever received from CNF. The concern was expressed that CCT recommendations were ignored while those of the NE Colville Forest Collaborative were accepted and incorporated into the proposed plan. The CCT has expressed that the FS apparent decision to defer land classification to appease environmental interests and accommodate NE Collaborative through a negotiated consensus is overriding federal trust responsibilities towards CCT and its reserved rights.
- The CCT has an extensive history of land secessions Reservation boundaries have been diminished multiple times. The original reservation extended from the US-Canada border south to the Columbia River and Lake Chelan as well as from the Idaho border to the crest of the Cascades. The north half was taken in 1891, through a statute enacted by Congress which reserved significant legal, political, and economic interests to CCT. The 1891 statute was interpreted by the US Supreme Court (*Antoine v Washington*) as a reservation of rights similar to a treaty. This puts the CCT in a unique and potentially powerful position to influence management on the “north half” (which encompasses much of the CNF).
- CCT’s forestry program is operated under a self-determination cooperative agreement with the BIA. This agreement combines Tribal personnel into one collective organization with the BIA. There is some uncertainty regarding the BIA’s authority to engage in FS activities because of administrative concerns

regarding use of appropriated funds for management of non-trust resources. The Tribal program is already understaffed and over worked with on the reservation, unable to dedicate substantial effort to engage with FS forest or project planning. The best option for efficiency and effectiveness depends on broad based cooperation and coordination of the CCT, BIA, FS and local stakeholders.

- The CCT is reluctant to join collaborative efforts (NW Colville Collaborative) because of potential negative impacts on its ability to protect its reserved rights and interests – i.e., agreeing to allow external entities to influence the management of resources that CCT has rights of access and use is politically unpalatable.
- The CCT is reluctant to expend its own dollars to defray costs of FS planning. Why should the CCT pay for the FS to fulfill its trust responsibilities? The CCT and CNF/OWNF should establish a Participatory Agreement to cost share CCT participation in the CNF and OWNF forest plan revisions and review.
- There is good potential for collaborative relationships between CCT and both National Forests.
 - The CCT's special relationship with the US through a federal treaty-like statute protects its rights and interests in north half federal lands.
 - A formal TFPA proposal would precipitate FS action, requiring a response within 120 days. However, CCT is unsure of how to proceed (NOTE: this doesn't square with CCT's Nov 2007 TFPA request to Okanogan NF – why?). As with YIN, CCT seems uncertain about how to submit TFPA proposals to FS. What format should be used and how should the case be presented are unresolved issues. There is a need for improved tribal understanding of FS administrative procedural flexibility, particularly regarding FS latitude to allow some management in roadless and perhaps even wilderness areas.
 - There is a distinct need to develop a template to help tribes prepare TFPA proposals (see discussion in Yakama report).
 - Because of FS sensitivities with wilderness and roadless area designations, CCT may be well-served to try to develop a MoU setting forth general principles for FS-CCT relationships without the baggage of a specific project proposal.
 - Political and legal flack could be expected if FS attempts to allow CCT to undertake active management, particularly at a large scale – perhaps start small, demonstrating success and gaining momentum over time?
- The CCT appears interested in working with the FS to address issues relating to use of the TFPA.

Notes:

- The CCT will likely not re-open its plywood plant. The CCT sawmill will require major retooling investment to become competitive. The OWNF and CNF need to work with the CCT because of reserved rights, and pressing natural resource issues. General working relationship with FS appears cordial and collegial, but uneasy and does not appear to be collaborative.
- General CCT relationships with NFs:
 - Limited contact with FS and no attempt at collaboration.
 - Experience with FS has been very poor. Little attempt to respond to tribal overtures and expressions of concern, much less to engage in dialogue. Relationships at local level seem better than regional/national offices. High level of CCT frustration with FS.
 - In '03 discussions were progressing well with local FS staff for CCT to assume management responsibilities on the north half, but agreement was not consummated because of lack of support within FS (Region and National levels).
 - The CCT has interest in using the TFPA to stimulate timber supply and address ecological functions.
 - The CCT is concerned with FS wilderness and roadless (current and pending) land allocations that restrict FS ability to treat problems with deteriorating forest health that pose great risks to trust lands and resources.
 - The CCT is concerned with lack of FS capacity to manage their land base caused somewhat by frequent staff turnover.
 - Local NF staff understand their forests have problems, but feel their hands are tied (wilderness and roadless area designations)
- The CCT manages homestead allotments outside reservation boundaries which are still held in trust, locations include Wenatchee and north half.
- The CNF is concerned with conditions on their lands and would like to be able to address the Fear of appeals and litigation is obviously involved in project delay or denial. The CNF is revising its forest management plan which provides an opportunity for tribal engagement. Efforts in this regard are not likely due to limited CCT staff and funding. The CCT is also concerned by the lack of FS response to previous CCT inquiries.
- Current depressed timber markets and infrastructure loss is having negative impacts on the FS and CCT ability to cost effectively treat overstocked forests while supporting stable economies, and restoring healthy, sustainable ecosystems. The recent blow down has resulted in an overabundance of CNF timber sales that is impacting the ability of CCT timber to command higher prices.

- CCT concerns with TFPA
 - Definition of “adjacency.” Threats will come from the north. How much time will be needed to be able to address those threats?
 - Impact on already overworked CCT staff. Lacks the resources and funding to be able to take on more responsibilities trying to collaborate with FS.
- CCT recommendations for improving utilization of TFPA:
 - Clarify limitations of the BIA’s ability to work collaboratively off reservation with FS.
 - Deal with adjacency, reserved rights, and concerns for deteriorating ecological health
 - Conduct joint training with FS and Tribe to learn together about the TFPA and administrative processes
 - Explore development of administrative guidance for FS for exercising agency flexibility to address conflicts between reserved tribal rights and trust responsibilities v. political accommodation of user interests for wilderness and roadless area designations which pose threats to trust lands and resources; additionally the scattered Indian homestead allotments challenge the ability of current FS management direction to provide adequate protection of those trust assets. The situation encountered at Colville would raise issues that have not been confronted before by FS HQ.

Follow-Up Needed: No.

Tribal Forest Protection Act Site Visit Report

Group	Date: August 9, 2012 Location:
Colville National Forest	Supervisor's Office Conference Room 765 South Main Street Colville, WA 99114 509-684-7000

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Site Visit Objectives:

Phase 3 comprehensive objectives include:

17. Assess the level of awareness of the Tribal Forest Protection Act at the local level between Tribal, BIA and Forest Service personnel.
18. Identify what is working, why and how, e.g. are there TFPA projects or other means of addressing any threats?
19. Discuss what isn't working as well as it should, e.g., what are the challenges and how are they being dealt with?
20. Review any lessons learned and recommendations of what can be done better in the future, at local, regional and national levels.

Observations and Conclusions:

- The Colville National Forest (CNF) staff had little recollection of comments provided by the Confederated Tribes of the Colville Reservation (CCT) on proposed land allocations (vague recollection of a letter prepared by a CCT attorney that was referred to FS Legal Counsel). The CNF has been interacting with the Kalispell Tribe.
- Willie Begay indicated during a debriefing session that this may be a legacy of decisions made by former R6 Tribal Relations Program Manager, Gary Harris, which designated one NF lead per tribe – he had designated O-W as the lead for CCT.
- The CNF had little familiarity with the history of the CNF or special rights reserved by CCT when the reservation was diminished in 1891. The lack of awareness or attention of any FS obligations to honor statutory requirements and trust responsibility in its management plan revision process is puzzling. This lack of history supports concerns over frequent CNF staff turnover voiced by CCT during our 8/8/12 meeting.
 - The relationships between the CCT and CNF would benefit from formalization and regular meetings to share perspectives and gain comfort (Bodie to provide Warm Springs MOU as an example).
 - The CCT has determined that it is not in its best interest to participate in the collaborative processes underway in the NW Colville Coalition because doing so would compromise CCT's reserved rights and co-management authorities. The CCT is concerned for the potential for NW Colville Coalition to undertake efforts to usurp decision authority of CNF and trust responsibilities for protection Tribal reserved rights.
- The CNF forest management program is focused on timber production to support dependent communities, particularly in the NE portion. Some primary issues for CNF: (1) revision of management plan (target date Jan '13); (2) NE Colville Coalition proposed wilderness area; (3) roadless/travel management; (4) ESA (Grizzly bears, wolves, bull trout), and (5) insects and disease (especially, spruce budworm, mountain pine beetle, mistletoe).
- The CNF has not received a formal TFPA proposal from CCT.
- The CNF feels there is good potential for collaborative relationships between CCT and FS.
 - The CCT's special trust relationship with the US and a federal treaty-like statute that protects its rights and interests on the former north half (Colville NF).
 - The opportunity exists for the CCT and CNF to coordinate plans for treatments, particularly along the CNF/CCT border and adjacent to trust properties within the former North half of the reservation. This

would identify concerns and help identify opportunities for collaboration to efficiently treat areas of mutual concern.

- A formal TFPA proposal would precipitate FS action and trigger a mandatory response within 120 days.
 - Because of FS sensitivities with wilderness and roadless area designations, CCT may be well-served to try to develop a MOU setting forth general principles for regular FS-CCT relationships without the limitations of a specific project proposal.
 - Political and legal flack should be expected if FS attempts to allow CCT to undertake active management, particularly at a large scale. Perhaps the Tribe should start small, demonstrating success and gaining support over time?
- The CCT appears interested in working with FS to address issues relating to use of the TFPA.

Notes:

- The CCT will likely not re-open its plywood plant. The CCT sawmill will require a major retooling investment to become operationally competitive. The CNF shares Okanogan-Wenatchee National Forest's concerns about political fallout from sole source contracts with CNF because of the dependence of local forest processing industry.
- The NE Colville Collaborative Coalition grew out of timber wars in early 2000s. Interest in resolving the gridlock and weary from fighting, an interest-based collaboration resulted in designation of 3 acceptable management zones: (1) Active management; (2) Wilderness; and (3) Restoration zone with restricted road use. The environmental community actively advocated for aggressive timber production within designated zones. This eventually led to a negotiated land allocation proposal, developed through negotiation among Coalition members which has been submitted to CNF. There was no technical analysis performed and CNF does not appear happy with attempts by the Coalition to dictate management plans and actions, feeling that their ability to care for the land and forests has been compromised. The CNF mentioned a letter from CCT that had been written by a tribal attorney (likely the letter of April 13, 2009 to Rick Brazell, Rebecca Heath, and Margaret Hartzell that Dan Brudevold provided to Gary Morishima at CCT meeting yesterday) that was referred to FS Office of General Counsel, but CNF staff was unaware of a response. There was some limited involvement by John Stensgar (CCT councilman) in identifying wilderness area classifications when a pine beetle outbreak prompted involvement of Congresswomen Maria Cantwell and Cathy McMorris-Rodgers. Apparently Mr. Stensgar indicated that he would be supportive of wilderness designation along the CCT/CNF border provided that the area is

treated first to address forest health concerns before the land is designated as wilderness. The environmental community was supportive of this idea, but Stensgar lacked the political support of CCT Business Council to make any commitments. Today, discussions with Coalition and entities that feel left out are resulting in more divisive and intense positional negotiations as the specifics of general agreements are devised.

- General relationships with CCT:
 - The CNF has limited contact with the CCT and little to no attempt at collaboration. The CNF staff is at a loss as to how to establish and maintain good working relationships with tribes.
 - The CNF experience with the CCT has been poor, particularly at the policy level. There has been little CCT response to FS initiatives. This may be an issue to CCT in feeling that it has been left out of the process and comments provided on draft plans ignored.
 - The CNF raised the issue of the lack of direction/clarity on interpretation of “adjacency” for TFPA proposals. The distance from the CCT reservation might not be appropriate, but the issue is complicated by the presence of scattered tribal homestead allotments. Apparently, a proposal was made by Kalispell Tribe which was rejected by Regional Office (Gary Harris) as not being “adjacent”. His response was “I will know it when I see it and this ain’t it.” Jonathan Brooks indicated that it depends on the context, the nature of the threat, and the importance of the resources to the tribe. The CNF seemed puzzled at what motivation the FS might have to be too restrictive on its interpretation of “adjacency”; Jonathan opined that it would likely involve concern over the sphere of tribal influence on FS decision latitude.
 - The CNF staff appears to think that CCT-CNF staff-level interactions are informal, infrequent, but collegial with no hesitation to be able to pick up the phone and call as need or occasion arises. But little policy-level interaction occurs at the CCT-CNF policy level. Unless something is done to establish and formalize government-to-government relationships between CNF and CCT, things will likely fester and CCT frustration will grow. Nothing is likely change. Bodie Shaw offered to call the new tribal chair (John Sirois) and urge him to reach out to the CNF Supervisor, who seemed interested in initiating communication from the CNF office as well. NOTE: Bodie sent an email to both Mr. Sirois and the CNF supervisor on 8/14/12 making introductions and encouraging an initial meeting.
- The CCT has expressed interest in planning and implementation of projects. The CNF is revising its forest management plan – seemingly to provide an opportunity for tribal engagement, but efforts in this regard are not promising. The CCT has provided comments

repeatedly, but expressed concerns that the he FS has been unresponsive. The CNF staff was unaware of these concerns.

- Threats to CCT from conditions on the CNF:
 - Insects and disease
 - Roads, encroachment by visitors
 - Access to cultural resources. A few years ago, a formal MOU on gathering was being developed and was progressing very well, but momentum stopped when the CCT individual who had been working with the FS passed away. The CCT did not pursue the matter further. Need to ask Dan Brudevold CCT Natural Resource Director, if he knows why. There seems to be a general history of failure to follow through on the sides of both the CCT and the CNF that is impeding the ability to work together. Scheduling annual meetings could help to eliminate any barriers and help provide a closer working relationship.
 - In the CNF area, fires rarely move from north to south. Unless something like a micro burst or unusual event occurs, fire on the CNF would not be a major threat to CCT Reservation. But wildfire on CNF could threaten Tribal reserved rights and scattered tribal homestead allotments located in the north half.
- Barriers to use of TFPA:
 - The lack of experience and understanding of the TFPA is apparent on both sides. Joint workshops and training sessions may be helpful.
 - The CNF staff capacity is already being stretched and the ability to undertake TFPA projects as another responsibility is uncertain. Although, if the CNF worked with the CCT on a TFPA project within the Collaborative Forest Landscape Restoration Act project area, this could be a win-win all around.
 - There is uncertainty over how questions of “adjacency” will be handled.
 - There is a need to clarify how the “sole source authority for acquiring logs and providing services applies to TFPA (the politics of addressing community concerns of CCT potentially securing sole source contracts for the timber will need to be discussed and resolved).
 - The lack of incentive is a familiar CNF concern, “what is our return on investment?” Other concerns include:
 - Limitations of funding appropriations.
 - Opportunities to simultaneously address multiple concerns to reduce strain on scarce staff resources.
 - There are uncertainties regarding the role of the BIA in supporting

TFPA. The BIA needs to research their roles and communicate with the Tribe and USFS.

- Potential amendments to TFPA to include:
 - Provide the authority to use CFLRA funds on lands regardless of ownership?
 - Provide guidance on interpretation of “adjacency”, i.e., tribe should present its arguments for adjacency based on its own rights, values, and concerns as part of TFPA proposals.
 - Include sufficiency language, aka proposal in pending Tribal Energy Bill to deem tribal plans sufficient to satisfy environmental protection statutes (what about SO 3206/EO 13175?) and reduce costs to NFs.
- The CCT needs to determine how to accommodate major commitments of staff time and limited resources to establish closer working relationships with the CNF.
- Determine how to maintain continuity in CNF-CCT relationships in the face of turnover in CNF staff and CCT political leadership.

Follow-Up Needed: No.

Chippewa-Leech Lake TFPA Site Visit Report

Introduction: A review team from the US Forest Service (USFS) and Intertribal Timber Council (ITC) visited the Leech Lake Band of Ojibwe Indians (LLBO) and Chippewa National Forest (CNF) on August 14th, 2012 as part of an ongoing analysis of TFPA implementation. A Bureau of Indian Affairs review team representative was scheduled, but ultimately unable to attend. The visit consisted of some introductory discussions at the Chippewa NF headquarters in Cass Lake, MN, followed by field visits to potential TFPA project areas.

A focus of the field visits were extensive lands damaged by a July 2012 wind event that impacted both LLBO and CNF lands, creating an imminent forest health threat due to extreme amounts of downed, damaged, and dead timber. While both the CNF and LLBO have had training in TFPA and collaborative work in recent years, no TFPA projects have been proposed/implemented for the CNF lands which both border and overlap the LLBO's reserve lands.

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Background:

Management of LLBO and CNF lands is highly interdependent. With over 200 miles of shared boundary, overlapping jurisdiction in many areas, and an abundance of shared infrastructure, both the CNF and LLBO are dependent on each other to accomplish their management objectives.

Total lands within the Chippewa National Forest proclamation boundary are 1.6 million acres, of which 666,542 acres are under FS ownership. A significant portion of the land within the boundaries of the Leech Lake Reservation is owned and managed by the federal government/USFS. Of the 666,542 acres administered by the Chippewa National Forest (CNF), approximately 43% or 286,000 acres are within the reservation boundaries. The Leech Lake Band of Ojibwe (LLBO) manages trust lands totaling ~29,000 acres, of which approximately 22,000 are classified as forest land (BIA Catalog of Forest Acres 2007). Approximately 6% of the forest lands held in trust for the LLBO on the reservation are managed by the BIA through a compact agreement with the LLBO. The remaining 94% of the federal forest land on the reservation is managed by the USFS-CNF. The LLBO has treaty rights on the CNF federal lands within the reservation. The USFS-CNF is responsible for the management of treaty resources for the benefit of the tribe.

The LLBO and CNF have a brief, one-page Memorandum of Understanding (MOU) that describes their working relations. However, the MOU was established in 1993 and has not been updated, resulting in a document that provides little practical guidance for current activities.

Some Tribal members consider the CNF land the Forest Service manages as unjustly taken from the tribe. The Federal Government acquired much of the CNF from individual Leech Lake Band members, and at the same time the Federal Government was and still is the Trustee for the Leech Lake Reservation. This history likely affects how the LLBO views USFS management of the forest lands on the reservation.

The LLBO and CNF have been working closely for the past 3-5 years on numerous projects that incorporate Tribal objectives and values into USFS management actions. The Tribe has provided guidance into project planning and engaged in implementation of many projects on CNF lands. These activities have provided employment for Tribal members and improvements to ecosystem health, thus benefitting resources important to Tribal members and the Forest Service.

The Forest Service provides initial attack coverage for fires within the reservation boundary on Tribal lands through an agreement with the BIA. This allows Tribal fire engines to be available for dispatch and longer-term assignments both on and off the reservation. This arrangement allows for Tribal employees to optimize their dispatch opportunities and maximize their income potential.

The local area still maintains six main wood processing facilities (studs, pulp, biomass), with others in the area being used occasionally, which provides opportunity for economic utilization of material resulting from forest health treatments. Additional infrastructure in the broader region may also be available.

Observations:

- The recent wind event has altered the focus for both the LLBO and FS staffs. Regularly scheduled projects will be delayed or altered to address risks from the blow down.
- The CNF and LLBO have had multiple training sessions in the TFPA, with recent training sessions held in 2010 and 2012. There was consensus that more discussion needs to occur as to what CNF projects would serve the Band's interests. It was also evident that the questions about tribal capacity would need further exploration before the Band can develop a solid proposal.
- While no TFPA projects have been implemented on CNF lands, the LLBO and CNF have cooperated on Eastern Regional Hazardous Fuels Reduction, a.k.a. Stevens Funds projects on LLBO lands to address forest health threats that cross ownership boundaries. The USFS and LLBO have also collaborated on several stewardship projects which provided opportunities for tribal members to gain skills and to enhance values on the CNF.
- The Reservation Business Committee (RBC) also referred to as the Reservation Tribal Council (RTC) is the primary governing body for the tribe. An apparent lack in continuity in elected officials from one election to the next has created uncertainty in tribal policies and views regarding resource management issues, as well as difficulty establishing long term relationships

- between personnel in the two organizations. Changeover in CNF leadership contributes to this lack of continuity in relationships as well. In addition, fifteen separate tribal communities have local governing groups that provide input in CNF project plans that are not necessarily in agreement with the RBC. This can lead to some confusion and conflict regarding tribal direction.
- The National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and differences in Tribal views regarding many USFS treatments complicate and extend the planning process, and result in delays in treatment of imminent forest health problems (blow down, insects, wildland fire) that threaten the LLBO. Delays to conduct environmental assessments and impact statements often result in reduced value of forest products (and economic viability of project implementation), attract insect build-up threatening other resources, reduce tribal access to traditional land values, and result in unnaturally high fuel loadings and fire risk.
 - CNF and regional staff are unclear on the limits to TFPA authority and applicability to various contracting/agreement instruments.
 - It is not clear if or when the LLBO Tribal Employment Rights Ordinance (TERO) could apply (or be modified to apply) to contractors working on USFS contracts on the reservation. TERO could potentially provide opportunities to fund training and provide work for tribal contractors on USFS contracts on the reservation. See http://www.llojibwe.org/services/dev/terodocs/tero_letter2DivisionsAug2-2011.pdf
 - Tribal preference is currently not allowed in many federal/state contracts or in private employer situations. Many tribes have tribal/village preference provisions in their TERO ordinances that are not consistent federal law and are therefore not allowed on federally funded or assisted contracts. Tribes can however, apply tribal preference in all aspects of employment to their own business enterprises and construction projects. Tribal preference is also allowed on tribal Public Law 93-638 contracts, and potentially in other federal contracts with intent to benefit federally recognized tribes, as long as equal opportunity provisions are followed. See <http://www.llojibwe.org/services/dev/terodocs/TERO%20QuickRefGuide.pdf>

Findings/Recommendations:

National:

Finding 1: Field personnel remain confused as to whether the USFS guidance requiring bidding on all timber sale contracts applies to TFPA projects.

Recommendation: The USFS needs to provide clarification and written guidance for regions, national forests and ranger districts on how various contracting tools interact with the TFPA authority and allowable selection criteria.

Finding 2: The threat of appeals and litigation (real or perceived) can delay or stop USFS projects from being implemented in a timely fashion, making many potential TFPA projects difficult or financially non-viable.

Recommendation: Consider administrative remedies, or potentially legislative amendment of the Tribal Forest Protection Act, that could simplify project analyses to allow timely Forest Service action in response to Tribal needs. This could include expansion of NEPA Categorical Exclusions for TFPA projects, use of Tribal regulations and rules (rather than USFS rules) for conducting project analyses, limitations on appeals, or other actions to streamline TFPA project analyses and implementation.

Finding 3: Federal funding allocations and associated requirements complicate local funding of staff to develop and prepare projects (e.g. Use of stewardship contracts that utilize “goods for services” is effective in providing funding to the local actions, but limits the ability to fund necessary USFS planning staff due to restrictions that require excess funds be only used to fund project implementation.).

Recommendation: Forest Service funding guidance and direction should explore ways to simplify local funding processes and reduce administrative juggling of authorities (timber sales vs. stewardship contracts), so as to provide for a balance between USFS staffing and project implementation.

Finding 4: There is broad confusion at the Tribe/National Forest/Ranger District level as to which authorities, policies and operational/implementation instruments apply to TFPA, which instruments best meet both parties’ intent, and how to formulate effective contractual instruments that incorporate the intent of the partnership.

Recommendation: The development of TFPA training modules should include one module that clearly explains and defines the suite of appropriate authorities, policies and operation/implementation instruments available to Tribes and Local Ranger districts. The modules should also include templates and examples of working agreement documents.

Regional:

Finding 1: The LLBO and CNF have established a healthy working relationship that has resulted in the planning and implementation of projects that meet joint resource management objectives.

Recommendation: the LLBO and CNF model provides a valuable working example of cross-boundary collaboration. This example should be shared widely across the region for other Tribes and National Forests to reference when developing their local partnership.

Local:

Finding 1: The brief MOU between the LLBO and the CNF was established in 1993, and does not adequately address the current philosophy, objectives and values of the two organizations that can withstand changes to leadership and personnel on both sides.

Recommendation: The LLBO and CNF should update and renew their MOU to more accurately reflect the current relationship and operating guidelines for conducting business on a government-to-government basis. This revision should include explicit delineation of jurisdictional authority and roles for LLBO leadership, staff, and community councils related to communication with the CNF.

Finding 2: Input from the LLBO to the CNF regarding management decisions is at times inconsistent and contradictory.

Recommendation: In addition to revising the LLBO-CNF MOU as discussed above, a potential long term solution could include active involvement by the LLBO in strategic forest planning and the decision process. If the LLBO does not have the staff, resources, and opportunity to be part of the decision making process on the CNF lands, an alternative strategy would be to develop a LLBO Integrated Resource Management Plan for reservation lands (including overlapping territories) and use the policies and direction from the LLBO plan to influence CNF management activities with the goal of providing clear and consistent input for the CNF to consider in making its decisions.

Finding 3: The LLBO has a relatively small professional forestry staff, primarily due to the relatively small amount of tribal trust forest land on the reservation. LLBO professional staff and technicians are likely near their capacity for taking on additional work. While there is interest and need for additional work, increasing the amount of activities above current levels to include additional TFPA projects on CNF land may require additional capacity and resources for the LLBO forest staff.

Recommendation: Continue to explore and use the broad suite of tools, including TERO, training programs, and BIA assistance to develop and secure additional capacity for the LLBO to participate in additional forest activities that have impacts to the LLBO reserved lands, resources and values. The LLBO could consider establishing a Tribal Forestry Enterprise Revolving account to facilitate the assessment of an administrative fee on contracts/agreements with the CNF, and use

those funds to supplement LLBO Forestry staff to plan and participate in implementing additional cooperative projects.

Finding 4: Current CNF policy calls for response to blow down and other large-scale emergency events to focus on safety and access to properties where human habitation occurs on CNF lands (campgrounds, rental properties), without larger consideration of broader resource values and impacts (wildfire potential, insect build-up and outbreaks, access for Tribal members to cultural sites and resources, etc.). Limitations on the use of Categorical Exclusions (CEs) for emergency treatments do not provide mechanisms to address Tribal consultation and broader concerns for landscape-scale treatment to avoid subsequent undesirable impacts.

Recommendation: Assess and consider agency authority to conduct environmental analyses and pre-planned implementation responses to emergency events through Forest Plan revisions and/or other mechanisms, for potential acceleration of agency response to future events.

Conclusions: The working relationships between the LLBO and Chippewa NF are substantial and growing. Recent projects demonstrate how this local partnership can accomplish resource management objectives across boundaries beneficial to both parties. Currently, Tribal lands are threatened from the extensive blow down that has the potential to increase insect and disease as well as fire danger. However it is not evident in this situation that the TFPA is particularly useful in expediting treatments so the value of the timber could be used to offset the costs of cleanup, nor for prioritizing Tribal areas for action (given the limitations to USFS action are more related to NEPA constraints and other administrative considerations).

Commendations: Carl Crawford, Neil Peterson and Keith Karnes have been instrumental in initiating dialog and building cooperation between the LLBO and the Chippewa National Forest. Staff from both the CNF and LLBO are to be commended for their efforts to build this LLBO/FS partnership.

Attachments:

1993 Memorandum of Understanding between LLBO and CNF

Photos:



Wind damage and downed biomass on Chippewa NF near the Ball Club tribal community. Photo by Chris Parley July 2012



Extensive wind damage near recreational homes . Photo by Chris Farley July 2012.

TFPA Site Visit: Menominee and Chequamegon-Nicolet National Forest

Introduction: A review team from the US Forest Service (USFS) and Intertribal Timber Council (ITC) visited the Menominee Tribal Enterprises (MTE) on the Menominee Indian Tribe of Wisconsin's reservation (Tribe) and Chequamegon-Nicolet National Forest (CNNF) on August 16th, 2012 as part of an ongoing analysis of Tribal Forest Protection Act (TFPA) implementation. A Bureau of Indian Affairs (BIA) review team representative was unable to join the trip due to a late injury.

The visit began with information sharing meetings at MTE Forestry Headquarters, and then the group visited a number of sites on the Menominee lands that were representative of the forest health challenges on both CNNF and Menominee reservation including wind damage and pest/disease outbreaks/treatment. A cultural/historical site, similar to others located on CNNF lands, was also visited to discuss the Tribal resources and values that need protected through landscape management and restoration. To date, no TFPA projects have been proposed or implemented for the National Forest lands which share a border on the north side of the Tribe's reservation.

Participants:

Review Team:

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Background:

- The Menominee Indian Tribe of Wisconsin reservation consists of approximately 238,000 acres of forest land, which is managed by Menominee Tribal Enterprises, which is the business arm of the Tribe for which it has inventory records that date back 60-70 years.
- There are approximately 20 miles of common border between the Menominee Reservation and the Chequamegon-Nicolet National Forest. In addition, the CNNF lands make up a significant portion of the upper watershed of the Wolf River, which flows through the reservation and provides water and fish habitat, creating an additional potential nexus/need for protection of Tribal aquatic resources and communities.
- Menominee Tribal Enterprise (MTE) operates their forestry program on an overarching concept of “Community”. This requires that business profitability be balanced along with other values important to a healthy, vibrant community, including cultural values, employment, community needs and business profitability.
- The MTE operates its own hardwood sawmill to optimize product value. It also cuts some large white pine and red pine logs in the mill, but sells smaller conifer logs to outside mills. The Tribe is also considering the addition of a small log mill that would handle small conifer logs from the reservation and potentially neighboring forests, including the CNNF.
- With its own mill and professional forestry staff, MTE has been relatively self-sufficient in terms of forest management and infrastructure. Through its Tribal College and other venues, the Menominee forest lands are often highlighted as a model example for sustainable forest management, both domestically and internationally.
- The Menominee Tribe and MTE has a long-term and significant cooperative relationship historically with the US Forest Service’s Research & Development (R&D) branch, with a USFS R&D liaison position established at the local Tribal College.
- Other Tribal values and issues besides forest health, such as burial and archeological sites, have dominated many CNNF and Menominee interactions.
- The Chequamegon-Nicolet National Forest is comprised extensively of vacated farm land and cutover timberlands that has been converted to plantations, heavy to red pine and self-regenerated hardwood stands. These lands are often intermixed with residual farms that occupy the best producing soils.

Observations:

- The Menominee management practices provide a working model of long term, sustainable forest management (100+ years) that provides diverse values for the Menominee community. Their forests stand out as a model of a working forest providing a great diversity of values for the Tribe, all while maintaining ecological biodiversity not found on neighboring plantation forests.
- Both the Tribe's and the CNNF's forests are faced with significant challenges from insects and disease, both native and invasive. All the nut producing trees are threatened with introduced insects or disease. Insects and disease are coming up from the southern states, which are thought to be accelerated by climate change. Annosum root rot in red pine is being treated by applying borax to stumps. Oak wilt is being treated by harvesting infected trees and removing their stumps out to a pre-determined radius of the infection. Hemlock, which comprises the largest volume by species on the reservation, is threatened by the hemlock wooly adelgid. Butternut has been taken out by a canker. Hickory is declining due to a beetle borer.
- MTE has substantial professional capacity, with on staff foresters, entomologists, and other professional staff necessary to identify and propose TFPA projects.
- Tribal-owned timber mill(s) and associated infrastructure also offer advantages in providing potential markets for materials harvested from TFPA restoration projects.
- While, or perhaps because, both CNNF and Menominee forestry staff are engaged in active management of their respective forest resources, there has been limited interaction and cooperative work between the forest management programs, though other programs, such as fire staff, have had more extensive cooperative efforts. There is limited knowledge or experience on the details of the Tribal Forest Protection Act.
- Each side may have knowledge or capacities that could be shared with the other side. For example, USFS managers & staff may have greater access to landscape level monitoring resources (e.g. Forest Health/Protection maps, etc.), while the Tribal mill and loggers, etc. could provide additional market/marketing opportunities for CNNF resources.
- MTE is looking for ways to keep loggers employed year round. During breakup and early summer when wood is often not cut to protect other resources and avoid bark sloughing. Both Menominee and CNNF managers have interest in maintaining a vibrant local wood products infrastructure.
- There might also be opportunities for tribal loggers to cut federal timber. This would likely require training on how to prepare federal bids/federal

contract requirements in order to be competitive, as federal award/selection criteria differs from the Menominee's system.

- There may be opportunities through TFPA or other stewardship activities on CNNF lands where "best value" evaluation criteria for contract selection may enable employment preference for local tribal members, though this could create conflict with non-Tribal loggers who face similar challenges regarding availability of work, particularly in the summer season.
- Finally, other opportunities or authorities beyond TFPA may exist for tribal members to work on service contracts on CNNF lands for projects like road maintenance, right of way vegetation control, or reforestation, which may provide opportunities in times where there are seasonal harvest restrictions.

Findings/Recommendations:

National:

- Finding 1: Forest Service Regions, National Forests, Congress and the general public are often not familiar with or aware of the TFPA and its potential use to improve collaboration and management of multi-owner landscapes.
 - Recommendations: The ITC, Forest Service and BIA need to actively share TFPA success stories as examples of opportunities for effective and efficient landscape management models.
 - Continue to provide training on TFPA to both Tribes and FS staff in order to ensure all parties are thinking about how the tool might be used to address joint forest health issues. Continue to clarify, in policy guidance and forms, what TFPA allows, as well as acknowledge other potential tools that may be more appropriate to accomplish landscape goals.
- Finding 2: TFPA may not always be the most appropriate tool for building Tribal/Agency cooperation and addressing issues of interest to both the Tribe and Agency.
 - Recommendation: Continue to emphasize the importance of encouraging all local parties to meet regularly and look across boundaries to jointly accomplish broad landscape objectives, using the broad suite of available collaborative direction and initiatives, such as the new USFS Planning Rule, TFPA, and others.

Regional:

- Recommendation: Support national efforts at providing TFPA training and policy guidance/clarification (see National Findings above).

Local:

Finding 1: It is unclear as to whether the Tribe, MTE and the CNNF have a Memorandum of Understanding (MOU) that defines their working relationship as it relates to resource management objectives and values that cross ownership boundaries.

Recommendation: The Tribe, MTE and CNNF should review the status of a joint MOU to address their working relationship. They should consider regular meetings and dialog to clarify and define their relationship, identifying overarching principles of engagement to address cross-boundary resource management objectives and values.

Finding 2: The Menominee Tribe and Chequamegon-Nicolet National Forest share similar forest ecosystem health issues and concerns. Invasive species appear to provide significant challenges to both entities that are landscape scale, potentially affecting both land ownerships.

Recommendation: Together these entities should develop a strategy to address species specific monitoring and treatment strategies, and coordinate treatments across borders to optimize effectiveness.

Finding 3: Seasonal species-specific harvest restrictions limit the continuity of work for local loggers, presenting challenges to maintaining adequate harvest capacity on the reservation and surrounding landscape. Tribal loggers in particular may need additional work that can utilize their equipment and provide income opportunities.

Recommendation: The Menominee Tribe, MTE and CNNF should collectively identify alternative activities (treatment of oak wilt sites, right-of-way vegetation control, etc.) that could utilize loggers and/or logging equipment during times of harvest restrictions. Maintaining vibrant logging capacity is critical to accomplishing effective land management objectives.

Finding 4: The Tribe has not yet determined the degree to which it is interested in pursuing a TFPA project with the CNNF.

Recommendation: The Menominee Tribal Enterprises should evaluate the threats to trust lands originating in the CNNF, and the overall scope and scale of their resource management program to determine the need and value of entering into a TFPA agreement with the CNNF. This evaluation should consider the need to facilitate treatment or restoration of CNNF lands in order to better protect Tribal lands and values.

Finding 5: The Menominee and USFS have significant partnerships that extend beyond the CNNF, including a direct relationship between USFS R&D and the Tribal College. These partnerships offer significant opportunities for learning and sharing lessons locally, regionally and nationally.

Recommendation: Continue to build this partnership through better integration of local USFS staff, and look for opportunities to leverage activities in ways that provide value to both sides. For example, the local USFS liaison to the Tribal College has offered to host/organize follow-up meetings to this visit in order to identify further partnership and learning opportunities.

Conclusions: The Menominee Tribe and Chequamegon-Nicolet National Forest share similar forest product markets, ecological concerns and limitations, as well as the need to cost effectively implement landscape level treatments. By working more collaboratively, they possess the potential to develop joint solutions to management issues that effectively treat the landscape across ownerships.

Commendations: Marshall Pecore provided a very good overview of the Menominee Tribe's vision of how the Tribe manages for community values, in contrast with European business-centric profit driven models such as stumpage generation. This description demonstrates how the Menominee view the world holistically as a true community.