

Memorandum of Understanding

REGARDING

TRIBAL ~ USDA-Forest Service Relations

ON

NATIONAL FOREST LANDS WITHIN THE TERRITORY CEDED

IN THE WASHINGTON TREATY OF 1836 AND ANY NATIONAL FOREST LANDS LOCATED

WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION OF ANY SIGNATORY TRIBE

May 2006

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PREAMBLE

This Memorandum of Understanding (MOU) deals with the relationships of sovereign and federally recognized tribes of Ottawa and Chippewa Indians and the USDA Forest Service, an agency of the United States Government. The MOU is based on the principle of government-to-government interactions between the United States Government and federally recognized Indian tribes, as established and prescribed in treaty instruments, congressional enactments, and Presidential policy. The purpose of the agreement is to establish standards by which the Forest Service and the Tribes will act consistently across lands and waters administered by the Forest Service within areas ceded in the Washington Treaty of 1836 and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.

The policies of the Forest Service toward federally recognized Tribes are intended to strengthen relationships and further Tribal sovereignty through fulfilling mandated responsibilities and through support and assistance of various kinds to Tribal governments. The relationships between the Tribes and Forest Service are comprised of several parts, including honoring treaty-based usufructuary rights as well as policies of the Forest Service toward Indian nations. While court decisions, laws, regulations, policies and Executive Orders from the President of the United States all have shaped the policy of the Forest Service toward Indian Tribes, nothing in this agreement, in any way, is intended to abrogate any Treaty right, or affect, in any fashion, judicial decisions that have interpreted such treaty rights.

This MOU recognizes the trust responsibility that the Federal government holds to provide for the exercise of the existing reserved treaty rights of the Tribes with the other usual privileges of occupancy on National Forest System lands within the ceded territory and on any National Forest System lands within the exterior boundaries of the Reservation of any signatory Tribe in accord with applicable federal regulatory authorities having jurisdiction over such activities. Reference in the MOU to such activities are designed to recognize that the Forest Service manages ecosystems which support these activities.

I. CEDED TERRITORIES AND NATIONAL FORESTS INVOLVED.

- A. Ceded Territories. This MOU specifically pertains to the territory ceded [hereinafter ceded territory] by various Ottawa and Chippewa Tribes in the Washington Treaty of 1836, 7 Stat. 491, and to any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.

- B. National Forests. This MOU specifically pertains to the portions of the following National Forests [hereinafter National Forests]: Hiawatha, and Huron-Manistee National Forests.
- II. PARTIES.** The following entities may ratify this MOU in accordance with their respective applicable laws and procedures, and, upon proper ratification, shall be deemed a party to this MOU:
- A. Tribes. In their respective sovereign capacities, the following federally-recognized Tribes [hereinafter Tribes]: Grand Traverse Band of Chippewa/Ottawa Indians; Little River Band of Ottawa Indians; Little Traverse Bay Bands of Odawa Indians; Sault Ste. Marie Tribe of Chippewa Indians.
- B. USFS. On behalf of the United States Department Agriculture, Forest Service [hereinafter Forest Service] as an agency of the United States Government: the Forest Service's Eastern Region; and the Eastern Region's Law Enforcement and Investigations.
- III. GOVERNING PRINCIPLES AND FUNDAMENTAL ASSUMPTIONS.** The parties agree that the MOU is based upon the following governing principles and fundamental assumptions and that the MOU shall be interpreted in accordance with them:
- A. Existence of Ceded Territory Rights. The parties acknowledge and recognize the existing reserved treaty rights of the Tribes with the other usual privileges of occupancy that may be exercised on lands administered by the Forest Service located within the ceded territory and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.
- B. Tribal Sovereignty and Self-Regulatory Capacity. The parties acknowledge and recognize:
1. The Tribes' inherent sovereignty and retained regulatory authority regarding their treaty-reserved rights; and
 2. The Tribes' ability to administer and implement a system of effective Tribal self-regulation regarding Tribal member exercise of those rights.
- C. Federal Trust Responsibility and Treaty Obligations. The parties acknowledge and recognize that the Forest Service shares in the trust responsibility and treaty obligations of the United States government to work with the Tribes on a government-to-government basis to protect the Tribes' treaty-reserved rights on lands administered by the Forest Service and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.
- D. Forest Service's Native American Policies. The parties acknowledge and recognize the Native American policies of the Forest Service, as presently set forth in Forest Service Manual 1563 [Tribal Governments] and guidance concerning those policies as explained in Forest Service Publication FS-446 [Native American Policy - Friends and Partners] to:
1. Maintain a governmental relationship with federally-recognized Tribal

governments consistent with the President's Memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments;

2. Implement programs and activities in a way that honors Tribal treaty rights and fulfills legally-mandated trust responsibilities, to the extent they apply to National Forest System lands;
 3. Administer programs and activities to address and to be sensitive to Tribal traditional religious beliefs and practices; and
 4. Provide research, transfer of technology, and technical assistance to Tribal governments.
- E. Forest Service's Forest Management Responsibilities. The parties acknowledge and recognize that the Forest Service is the agency of the United States Government authorized and responsible for implementing law and policies related to National Forest management.
- F. Forest Service's Law Enforcement Responsibilities. The parties acknowledge and recognize that the Forest Service's Law Enforcement and Investigations Branch is responsible for enforcement of alleged violations of federal laws and regulations occurring on lands administered by the Forest Service.
- G. General Tribal/USDA-FS Government-to-Government Relationship Unaffected. This MOU applies to the parties' government-to-government relationship; the Tribes' treaty-reserved rights applicable on lands administered by the Forest Service, and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe; and the parties' relationships and dealings involving those rights. It is not intended, and is not to be construed, to abrogate or otherwise affect any party's authority or responsibility in other areas. Similarly, it is not intended, and is not to be construed, to otherwise define or restrict the parties' obligations, relationships, or dealings in other areas of their respective authorities, responsibilities, or sovereign prerogatives.
- H. Effect of MOU on Non-Ratifying Tribes. The parties' specific intent is that this MOU shall not bind or in any way affect the rights or claims of any 1836 Treaty Tribe that chooses not to become a party or of any other Tribe that is a signatory to the treaty identified above in Section I.A.
- I. Reservation of Rights, Claims and Defenses.
1. The termination of or withdrawal from this MOU shall be without resulting liability to any other party or prejudice to any claim a party may have against any other party.
 2. Except as expressly provided herein, the fact that any Tribe or the Forest Service is or may have been a party to this MOU is not to be construed as a waiver of any rights, claims or defenses that, absent this MOU, any of those entities may have under any treaty between the United States and a Tribe, or under other applicable law of the United States.

3. The parties acknowledge that this MOU contains provisions that may be the result of compromise and policy choices. As such, these provisions may not reflect the full extent of the Tribes' treaty-reserved rights or of the Forest Service's responsibilities to manage the National Forests. Therefore, in the absence of or outside the scope of this MOU, the provisions contained herein are not intended to alter or abridge:
 - a. The Tribes' treaty-reserved rights or those rights of any other treaty signatory Tribe that is not a party to this MOU; or
 - b. The Forest Service's authorities to manage the National Forests in accordance with applicable law.

- J. **Non-Fund Obligating Documents.** Nothing in this MOU shall obligate either the Forest Service or the Tribes to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Forest Service or the Tribes will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution and administration of each such agreement must comply with all applicable statutes and regulations.

IV. PURPOSES. To accomplish the primary purposes of recognizing and implementing the Tribes' treaty-reserved rights and furthering Forest Service Native American policies, the parties intend to:

- A. Government-to-Government Relationship. Establish a framework for a cooperative, government-to-government relationship between the Tribes and the Forest Service that:
 1. Ensures the meaningful exercise of the Tribes' treaty-reserved rights on the lands and waters administered by the Forest Service within the ceded territories and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.
 2. Facilitates consistent and timely communication between parties at the appropriate levels of government; and
 3. Fosters effective participation by the Tribes in National Forest management, in the development, revisions, and implementation of Land and Resource Management Plans [hereinafter Forest Plans] and in subsequent Forest Plan implementation decisions.

- B. Exercise of Ceded Territory Rights. Establish agreed-upon parameters under which the Tribes' treaty-reserved gathering rights may be exercised within the provisions of and the protections afforded by this MOU on lands administered by the Forest Service within the ceded territories and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.

- C. Conservation of Natural Resources. Protect, manage, and enhance ecosystems and communities that support the natural resources subject to the Tribes' treaty-reserved rights on lands and in waters administered by the Forest Service.
- V. **RECOGNITION OF MUTUAL INTERESTS.** Underlying the purposes of and specific agreements contained in this MOU, the parties recognize a number of mutual interests that they wish to address:
- A. Tribal Self-Determination and Self-Governance. One of the Tribes' primary goals is to achieve self-determination and self-governance through the exercise of their retained sovereign governmental authority regarding their treaty-reserved rights. A key Forest Service policy is to administer its programs and activities in a manner that recognizes the governments of the Tribes and the authority that they carry out on behalf of the Tribes. Therefore, the parties seek to establish a government-to-government relationship that:
1. promotes collaboration and communication in the management of the National Forests;
 2. provides for effective Tribal self-regulation of the exercise of treaty-reserved rights on lands administered by the Forest Service, and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe;
 3. that promotes efficient and effective law enforcement.
- B. Collaborative Approach in the Management of Natural Resources. The Tribes' treaty-reserved rights include the right to gather wild plants and to harvest wild animals on lands administered by the Forest Service and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe. The Tribes want to ensure that management of these lands protects their ability to meaningfully exercise these treaty-reserved rights. The Forest Service is tasked with the administration of the National Forests, and is the federal agency responsible for the care and management of the land and natural resources that are part of the National Forests. Therefore, the Tribes and the Forest Service seek to establish a relationship and associated processes that facilitate consistent and timely communication between them, and that integrate the Tribes' needs and interests for the desired state of the National Forests into Forest Plans and subsequent Forest Plan implementation decisions.
- C. Sustainability of Ecosystems. Since time immemorial, the Tribes traditionally have harvested certain plants and other resources to meet subsistence, religious, cultural, medicinal and commercial needs. The Tribes' culture and lifeways depend on this harvest activity, and the Tribes wish to protect and enhance the natural resources upon which their members rely. The Tribes consider these resources as essential to Aníshinaábek sustenance and survival, and evaluate the protection of these resources as an inherent responsibility and right of Aníshinaábek to ensure resource sustainability for use by the waánídaádizijik ("future-born people"). The Forest Service is the federal agency within the federal system responsible for

managing the National Forests for the benefit of present and future generations. In addition, it is the policy of the Forest Service to carry out its programs and activities in a manner that is sensitive to the Tribes' traditional practices and beliefs. Therefore, the Tribes and Forest Service collaboratively seek to promote ecosystem management that protects and restores native communities and species, furthers the diversity of native species, and ensures sustained yield and availability of natural resources that are subject to the Tribes' treaty-reserved rights.

- D. Efficient and Effective Law Enforcement. As part of their self-regulatory system, the Tribes recognize the need to provide for the enforcement and adjudication of alleged violations of Tribal laws governing the exercise of the treaty-reserved rights. To further compliance with Tribal laws, the Tribes acknowledge that the administration of justice in this context is best accomplished within their own communities and in their own forums. The Forest Service also recognizes that justice is best served in the communities most involved and affected. Therefore, the parties seek to establish a mutually beneficial efficient and effective system for enforcing applicable laws.
- E. Implementation of the Federal Trust Responsibility. The Tribes continually seek to have the United States Government and its agencies properly discharge the federal trust responsibility to assist in the development of the Tribes' governmental capabilities and to take actions for the Tribes' benefit. The Forest Service's policy is to administer its programs and activities in a manner sensitive to the Tribes' needs, beliefs, and practices, and to provide research, transfer of technology, and technical assistance to the Tribes. Therefore, the parties seek to establish a framework for collaboration, communication, and information exchange that will nurture understanding and maximize mutual benefits, and that will enhance the development of the Tribes' capabilities necessary to ensure effective Tribal participation in the processes and procedures established in this MOU.

VI. SPECIFIC AGREEMENTS TO IMPLEMENT THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP. This section sets forth the specific agreements to implement the parties' government-to-government relationship in these areas: (A) MOU administration and implementation; (B) National Forest planning and decision-making; (C) natural resource harvest management; (D) [natural resource monitoring and evaluation](#); (E) law enforcement; and (F) amendment of the MOU and its Appendices.

- A. MOU Administration and Implementation.
 - 1. The parties shall strive to reach consensus in all decisions, actions, and processes contemplated by the MOU.
 - 2. Unless otherwise specifically provided in this MOU, the parties shall attempt to resolve any dispute arising under the MOU at the lowest possible level on a government-to-government basis between properly authorized representatives of the parties who have the authority to resolve the dispute in question.
 - 3. To facilitate on-going communication and the resolution of outstanding

issues, the parties:

- a. Shall meet at least annually to:
 - i. review progress made and discuss issues arising under this MOU;
 - ii. ensure that the parties are faithfully and effectively implementing this MOU and adhering to its terms; and
 - iii. discuss trends, issues, or other matters that may affect the MOU.

The Forest Service shall accept comments from interested citizens about the implementation of the MOU at any time. The parties shall consider any comments at the annual meeting and jointly approved minutes shall be made available for public review.

- b. Hereby establish a Technical Working Group (hereinafter TWG), which purpose shall be to review any scientific, technical or natural resource management issue referred to it in this MOU, or by subsequent agreement of the parties. The TWG is empowered to make recommendations to the parties regarding the matters referred to the TWG. The TWG also is empowered to suggest to the parties issues that may require the parties' attention and consideration.

The TWG shall be comprised of qualified natural resource scientists, managers and researchers, or other appropriate staff, designated by the Forest Service and the Tribes. Law enforcement personnel should participate in the TWG, as necessary, to address enforcement-related issues.

The Forest Service and the Tribes each shall appoint a TWG co-chair to coordinate communication and planning for the work of the TWG. The TWG may appoint one or more working subgroups to address specified issues.

- c. May, in addition to matters referred to the TWG, agree to refer specific questions or issues to designated representatives or to ad hoc working groups for discussion, development of information, formulation of recommendations, or specific action.
 - d. Agree to provide such data and information as another party might request pertaining to matters addressed by the MOU, such as natural resource population and harvest data, law enforcement statistics, and Tribal court statistics.
4. The parties shall cooperate in identifying and seeking adequate funding for the enhancement of their infrastructures necessary to improve the implementation of this MOU. The parties acknowledge that this MOU does not modify or restrict the budgetary authority of either party.
 5. The Forest Service shall undertake cultural sensitivity training for their personnel who shall be responsible for implementing this MOU. The parties

also shall engage in joint and coordinated public education efforts to inform the public about this MOU and its underlying purposes.

- B. National Forest Planning and Decision-making. The parties recognize that Forest Service decisions vary in their effects on the abundance of, distribution of, or access to, the natural resources on the lands and in the waters that it administers. For example, the Forest Service, at various levels, makes a number of decisions that relate to such matters as the development, revision, and implementation of Forest Plans for each of the National Forests covered by this MOU. Project decisions commit to particular land management actions, such as closures of roads. Plan decisions establish the policies or guidelines that govern these actions. Other decisions relate to such matters as the internal administration of the Forest Service as an agency regarding personnel, property, and budgets, and do not commit to particular land management actions or establish policies governing those actions.

The Tribes and Forest Service agree that they shall consult, on a government-to-government basis, on all Forest Service decisions that affect the abundance, distribution, or access to the natural resources on lands administered by the Forest Service. In addition, the parties agree that the goal of such consultation shall be that any such Forest Service decision shall recognize and shall accommodate the Tribes' treaty-reserved rights, shall protect and enhance treaty-reserved natural resources, and shall accommodate the exercise of treaty-reserved rights by Tribal members under Tribal regulations. The Tribes and Forest Service acknowledge that it is their expectation that implementation of this portion of the MOU will require development of protocols identifying particular decisions and actions for which consultation will be required, the manner in which consultation will occur and the procedures for resolving disputes between the Tribes and the Forest Service.

To achieve this end, the Tribes and Forest Service specifically agree that:

1. The Forest Service will notify the Tribes of all decisions or actions under consideration by the Forest Service involving land management actions that may affect treaty resources, including the development or revision of policies or guidelines governing those actions, and research projects to be conducted by the Forest Service on lands within the 1836 Ceded Territory or any signatory Tribes' reservation, to afford the Tribes the opportunity to request formal consultation with respect to such decisions or actions.
2. As to decisions that result in particular land management actions, in policies or guidelines governing those actions, or in research projects to be conducted by the Forest Service on lands within the 1836 Ceded Territory or any signatory Tribes' reservation, the Forest Service shall, when required by existing law or if requested by 1 or more signatory Tribes:
 - a. Consult with and facilitate effective participation by the Tribes at all stages and levels of the decision-making process. This government-to-government consultation is recognized as a dynamic process that must include consultation on a consistent and timely basis at the appropriate levels of government, and that must be flexible to deal with ever-

changing circumstances and adaptive natural resource management responses.

- b. Consider the effects of its decisions on treaty resources and the ability of the Tribes to exercise treaty usufructuary rights. In decision and analysis documents, including, but not limited to, those required by the National Forest Management Act and the National Environmental Policy Act, Forest Service decision-makers shall show how Tribal consultation, information, and involvement was taken into account in analyzing the effects of potential management actions and in making the decision.
 - c. The Tribes and the Forest Service shall strive to reach consensus on decisions or actions subject to consultation. Where consensus cannot be reached:
 - i. They shall attempt to resolve any dispute or disagreement first by good faith discussions between the affected Tribe(s) and the Forest Service deciding official. The Tribe(s) may raise any matter not resolved at this level to a higher Forest Service official, including, but not limited to, the appropriate Forest Supervisor and the Regional Forester. The Forest Service agrees to delay a final decision on the unresolved matter until this process has had the opportunity to take place within a reasonable amount of time.
 - ii. The Forest Service may make and implement the decision.
 - iii. In addition to the procedures provided by the MOU, a Tribe may challenge or appeal any Forest Service decision or action in accordance with applicable law.
3. The parties shall cooperate in identifying and seeking adequate resources for the Tribes' and Forest Service's capabilities necessary to implement this MOU. To the extent possible, the Forest Service shall seek input from the Tribes in a timely manner regarding the development of the Forest Service budget proposal for upcoming fiscal years.
 4. During the course of their dealings, the Tribes and Forest Service shall ensure that they have identified their representatives, in writing, with whom the other parties should interact regarding particular decisions or particular types of decisions.
 5. Nothing in this MOU shall preclude the Tribes and Forest Service from discussing matters or advancing particular requests that are not part of a particular pending Forest Plan implementation decision.
- C. Natural Resource Harvest Management. The Tribes and Forest Service acknowledge their mutual interests in undertaking a collaborative approach in:
1. Managing the harvest of natural resources on lands administered by the Forest Service to ensure the sustainability of ecosystems and the sustained yield of natural resources;

2. Ensuring that the Tribes' treaty-reserved rights are exercised in a meaningful manner, and
3. Providing for an ecological balance, under which the Tribes shall exercise their treaty-reserved rights on those lands and waters administered by the Forest Service within areas ceded in the Washington Treaty of 1836 and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe.

Specifically, the Tribes and Forest Service agree:

1. Within the bounds of their respective authorities, to regulate, where necessary, and to monitor the harvest of natural resources on lands administered by the Forest Service in a manner that provides for a sustained harvest of those resources and affords the Tribes the opportunity to harvest of those resources.
2. That the Tribes shall regulate, where necessary, Tribal member gathering on lands administered by the Forest Service by adopting regulations and implementing permit systems that are no less restrictive than those set forth in the Model National Forest Gathering Code [hereinafter Model Code] that is attached as [Appendix A](#), and including Wilderness and Research Natural Areas on National Forests, Version 1 that is attached as [Appendix C](#), which documents are specifically incorporated into this MOU.
3. That any changes making the Model Code, or any Tribe's enactment based upon the Model Code, less restrictive shall fall within the scope of the MOU if the Forest Service's consent is obtained in accordance with the provisions of subsection F, below.
4. To monitor resource harvest levels in the most effective and precise manner needed to ensure resource protection, and to exchange harvest monitoring data on a regular basis within budget constraints and consistent with this MOU and the parties legal requirements.
5. To determine current availability and develop procedures to designate skigaámisiganing ("areas for sugarbushes") that will meet the needs identified by the Tribes, and to jointly develop specific sugarbush management plans. The parties further agree to consider complementary and conflicting resource values, location of historical sugarbushes, proximity to reservations, and other relevant factors in choosing sugarbush locations.
6. To locate resources of interest to the Tribes and, consistent with any applicable legal limits and biological considerations, to provide gathering opportunities for those resources, particularly regarding gathering opportunities associated with proposed National Forest timber sales.
7. That the Tribal members use National Forest campgrounds in the exercise of their treaty-reserved rights, and that Forest Service fees and length of stay restrictions at campground should not interfere with the exercise of the

rights. The parties have developed an Exemption Agreement and Implementation Plan attached as [Appendix D](#) regarding campground fee and length of stay exemptions for Tribal members which are part of the MOU and specifically incorporated by reference herein as if set forth in their entirety.

8. That, in accordance with the provisions of subsection F, below, the Forest Service shall notify the Tribes of, and obtain the Tribes' input on, proposed changes in federal laws or regulations that are intended to regulate or otherwise restrict the harvest of natural resources on lands or in waters administered by the Forest Service within the ceded territory.

D. [Natural Resource Monitoring and Evaluation](#). To ensure the sustainability of ecosystems, the Tribes and Forest Service acknowledge the importance of inventorying and monitoring the status of species and their habitats within the National Forests, evaluating the impacts of harvest on the resources subject to the Tribes' treaty-reserved rights, and evaluating the effects of other land management activities on those resources. With the input and recommendations of the TWG, the Tribes and Forest Service agree to:

1. Review their respective existing monitoring and evaluation and administrative studies as needed for the purpose of encouraging research coordination.
2. Establish and implement a collaborative program of monitoring, and evaluation regarding the resources subject to the Tribes' treaty-reserved rights that specifically would:
 - a. Inventory species status and habitat requirements.
 - b. Monitor the population dynamics and habitats of species as required in the appropriate Forest Plan.
 - c. Determine the effects of land management activities, such as timber harvest, on species' habitat.
 - d. Determine the effects of wild plant harvest on the status of the species being harvested.
 - e. Evaluate such other matters that relate to the resources subject to the Tribes' treaty-reserved rights.

E. [Law Enforcement](#). The parties acknowledge the Tribes' capabilities to implement a self-regulatory system governing the exercise of treaty-reserved rights applicable on lands and waters administered by the Forest Service within areas ceded in the Washington Treaty of 1836 and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe. The parties specifically agree that:

1. Any regulation adopted by a Tribe consistent with the MOU shall govern the

exercise of the Tribes' treaty-reserved gathering right, including the use of National Forest campgrounds, within the National Forests and is within the scope of the MOU. Any Tribe's regulation that is not consistent with the provisions of the MOU is outside the scope of the MOU.

2. The enforcement of the Tribes' regulations, and of any federal statute or regulation governing the conduct within the scope of a Tribe's regulations, that are consistent with the terms of the MOU shall be governed by a properly ratified agreement that is no less restrictive than the Tribal Self-Regulation Agreement [hereinafter Self-Regulation Agreement], attached as Appendix B and specifically incorporated into the MOU. For the purposes of this subsection, "properly ratified" means a party's approval of, and the agreement to be bound by, the Self-Regulation Agreement in accordance with that party's required governmental procedures.
3. That any changes in the Self-Regulation Agreement shall be made in accordance with the provisions of subsection F, below.
4. Primary enforcement and administration of justice responsibilities for the Tribes' regulations lies with the Tribes and their properly authorized agencies. The federal government reserves the right to prosecute violations of regulations or laws as provided in the Self-Regulation Agreement.
5. The Tribes and Forest Service shall coordinate their respective law enforcement activities and shall establish cooperative law enforcement ventures, such as joint patrols, effective communication systems, information and potential violation referral processes, and joint training activities. These coordinated law enforcement activities shall include at least once-per-annum meetings between designated enforcement personnel.

F. Process for MOU Amendments, Regulatory Changes, and Self-Regulation Agreement Changes. The parties recognize the dynamic nature of their government-to-government relationship. They also recognize that changes in federal and Tribal regulation and management of the harvesting of the National Forests' natural resources in the ceded territories and on any National Forest System lands located within the exterior boundaries of the Reservation of any signatory Tribe are inevitable. To facilitate open communication and to minimize disputes arising from the dynamics of their relationship, and from the need to change harvest regulations, the parties agree:

1. *MOU Amendment.* Any party may propose an amendment to the MOU, in writing, to the other parties. Within 60 days of receipt, the parties shall convene a meeting to consider the proposal. An amendment may be adopted by and be binding upon less than all of the parties, provided that the adopting parties include at least one Tribal party and the Forest Service.
2. *Federal Laws and Regulations.* The Forest Service shall seek the input of the Tribes on proposed changes to the Forest Service's regulation of natural resource harvesting within the ceded territories, and on any National Forest

System lands located within the exterior boundaries of the Reservation of any signatory Tribe, by providing written notice, including an explanation of the underlying rationale, to the Tribes at least 60 days in advance of the desired effective date of the proposed change. The Tribes shall have 45 days, or such other time period as may be agreed upon, to provide comments.

In addition, the Tribes may submit a written request to the Forest Service for changes in the Forest Service's regulation of natural resource harvesting, including an explanation of the request's rationale. The Forest Service agrees to respond to the request within 45 days, or such other time period as may be agreed upon.

Unless applicable law specifically imposes other time frames, the Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on the Forest Service proposal and on a Tribe's request.

3. *Model Code or Tribal Enactments Based Upon the Model Code.* The Tribes agree to notify the Forest Service, in writing, of any proposed change that would make the Model Code, or any Tribe's enactment based upon the Model Code, less restrictive than provided for in the MOU. In addition, the Forest Service may request the Tribes to change the Model Code, or any Tribe's enactment based upon the Model Code, to be more restrictive than provided for in the MOU.

Except in cases of emergency, such notices and requests shall be provided at least 60 days in advance of the desired effective date of the change and shall include an explanation of the rationale for the proposal. Within 45 days of receipt, or such other time period as may be agreed upon, the receiving party or parties shall respond, expressing any objections and indicating any changes that are agreeable. The failure to object, in writing, to a proposed change within the 45-day period, or any extension thereof, shall be deemed as agreement to the proposal.

The Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on any objection to a proposed or requested change.

A properly amended Model Code shall replace the then-current Appendix A to the MOU and is specifically incorporated by reference herein as if set forth in its entirety.

4. *Tribal Self-Regulation Agreement.* Any party may submit a written request to the other parties for a change in the Self-Regulation Agreement. Except in cases of emergency, such request shall be provided at least 60 days in advance of the desired effective date of the change, and shall include an explanation of the rationale for the proposal. Within 45 days of receipt, or such other time period as may be agreed upon, the receiving party or

parties shall respond expressing any objections and indicating any changes that are agreeable. The failure to object in writing to a proposed change within the 45-day period, or any extension thereof, shall be deemed as agreement to the proposal.

The Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on any objection to a proposed change.

A properly amended Self-Regulation Agreement shall replace the then-current Appendix B to the MOU, and is specifically incorporated by reference herein as if set forth in its entirety.

VII. CONGRESSIONAL INVOLVEMENT. Pursuant to 42 U.S.C. Section 22, no Member of or Delegate of the Congress of the United States shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

VIII. MOU EFFECTIVE DATE/TERM/TERMINATION.

- A. Effective Date; Term. The MOU shall take effect on the date when at least one Tribe, the Forest Service's Eastern Region and the Region's Law Enforcement and Investigations Branch properly have ratified it in accordance with their respective governmental procedures and, unless a party withdraws as provided in Section IX, below, shall remain in effect for a term of 5 years.
- B. Renewal of MOU. At least one (1) year prior to the expiration of the initial five (5) year term, or any renewal term, either party may serve written notice on the other of its intent to renew and/or renegotiate this MOU. The parties shall meet to discuss the renewal and/or renegotiation of this MOU within 30 days after receipt of the notice by another party of its intent to renew the MOU.
- C. The MOU shall be binding as to and between those entities upon notice to the other parties of their ratification as provided in Section IX, below.

IX. REQUIRED NOTICES/PARTIES' DESIGNATED REPRESENTATIVES.

- A. Notice of Ratification. Within 30 days of ratification of the MOU, an entity shall notify, in writing, all other entities listed in Section II, of the date of ratification. Each party's Notice of Ratification is specifically incorporated into the MOU as if set forth in its entirety.
- B. Notice of Withdrawal. Any party may withdraw from this agreement at any time. This MOU shall no longer be in effect if the Forest Service withdraws or if all ratifying Tribes have withdrawn.

A party shall provide written notice to the other parties of its intent to withdraw from the MOU at least 60 days in advance of the proposed withdrawal date. Within 45 days of such notice, or such other time period as may be agreed upon, the parties shall convene a meeting to discuss the intent to withdraw and to attempt to reach consensus on ways to prevent the withdrawal. Should a party ultimately

withdraw from the MOU, the party shall provide a written Notice of Withdrawal to the other parties, and such Notice is specifically incorporated into the MOU as if set forth in its entirety.

- C. Designated Representatives. In providing notice of its ratification, a party may designate its representative for receiving the notices from another party that are required by the MOU. Where a party has not formally designated a representative either with its Notice of Ratification or with respect to particular matters addressed by the MOU, another party may provide a required notice ex officio to the office of the official that provided the party's Notice of Ratification.

X. INITIAL MEETING OF THE PARTIES. Within 90 days of the effective date of the MOU, the parties shall convene an initial meeting for the purposes of: (A) identifying those matters that require immediate attention in implementing the provisions of the MOU; (B) identifying and addressing any other matter regarding the MOU that requires the parties' attention; (C) setting forth a timetable for addressing those matters; and (D) identifying their representatives that shall serve as their "keepers of the process" in ensuring that the MOU is faithfully implemented. These representatives may be persons other than a party's designated representative for receiving required notices from another party provided for in Article IX.