

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

APPENDIX B

TRIBAL SELF-REGULATION AGREEMENT

MAY 2006

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TRIBAL SELF-REGULATION AGREEMENT

This Tribal Self-Regulation Agreement [hereafter “Self-Regulation Agreement”] is entered into as part of the parties' ratification of the *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 within the Exterior Boundaries of the Reservation of Any Signatory Tribe* [hereafter MOU]. Specifically, the Self-Regulation Agreement implements the MOU's provisions regarding the administration of justice outlined in MOU Section VI.E.

1. Parties. The entities that may be parties to the Self-Regulation Agreement are the same as those that may be parties to the MOU, as set forth in MOU Section II.

2. Incorporation of MOU's Provisions. The MOU, as may be amended from time to time, is specifically incorporated by reference into the Self-Regulation Agreement as if set forth in its entirety. The Self-Regulation Agreement shall be construed consistent with the purposes and provisions of the MOU, and, except as otherwise specifically provided herein, terms in the Self-Regulation Agreement shall have the same definition as provided in the MOU and in Appendix A to the MOU (Model National Forest Gathering Code)[hereafter “Complying Tribal Code”].

3. Scope and Purposes of the Self-Regulation Agreement. The Self-Regulation Agreement pertains to the administration of justice regarding the Tribes' exercise of their treaty-reserved ceded territory rights. Its primary purposes are to:

- a. Facilitate the exercise of the Tribes' self-regulatory authority over the exercise of those rights; and
- b. Prevent dual prosecution in tribal and federal forums stemming from conduct regulated by a Tribe's [hereafter “Complying Tribal Code”].

4. Enforcement and Prosecution of Alleged Violations of Tribal Law. The parties acknowledge that conduct governed by a Complying Tribal Code also might be governed by federal statutes or regulations which the Forest Service is authorized to enforce in federal forums. Where the underlying conduct or act would be a violation of a Complying Tribal Code and of a federal statute or regulation, the parties agree that the Tribe's court is the preferred forum for dealing with the alleged violation. Specifically, the parties agree:

MOU Appendix B

Tribal Self-Regulation Agreement

Page 2

a. Except as provide in subs. b, any conduct or act which is an alleged violation of a Complying Tribal Code shall be administered and prosecuted in accordance with the provisions of the Complying Tribal Code, provided:

1) The Complying Tribal Code is in force at the time of the alleged violation; and

2) The Tribe maintains a tribal court with jurisdiction to enforce the Complying Tribal Code.

b. After consultation with the affected Tribe, the Forest Service may initiate a federal enforcement action where the underlying conduct is egregious in nature. Factors to determine egregiousness shall include: the type of conduct involved; the amount of natural resources illegally taken; the nature and extent of the natural resource damages caused by the illegal act; considerations for specific and general deterrence; and considerations for compensating those persons or entities harmed or damaged by the conduct or act.

5. Agreement Effective Date/Termination. The Self-Regulation Agreement shall take effect when at least one Tribe, the Forest Service's Eastern Region and the Region's Law Enforcement and Investigations have properly ratified it in accordance with their respective governmental procedures. The Self-Regulation Agreement shall be binding as to and between those entities that ratify it upon notice to the other parties of their ratification as provided in MOU Section IX.

The Self-Regulation Agreement shall automatically terminate at such time when the requisite combination of parties to make it effective no longer exists, or when the MOU terminates.

6. Dispute Resolution. The parties agree that any controversies, disputes, differences or misunderstandings arising out of the Self-Regulation Agreement, including disputes arising under Section 4.b., shall be addressed as disputes under the MOU and handled in accordance with the MOU's provisions.

7. Amendment of Agreement. The parties agree that amendments to the Self-Regulation Agreement shall be addressed in accordance with the provisions of MOU Section VI.F.

8. Required Notices/Parties' Designated Representatives. The parties agree that the provisions of MOU Section IX shall apply to Notices of Ratification of and Withdrawal from the Self-Regulation Agreement and to the parties' designation of representatives regarding the Self-Regulation Agreement.