



# USDA FOREST SERVICE TRIBAL RELATIONS DIRECTIVES OVERVIEW

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# INTRODUCTION

- Every part of the Forest Service has a tribal relations aspect: Tribal relations is everyone's job
- The revised directives will help Forest Service employees more clearly understand the requirements, complexities, and opportunities of tribal relations
- The foundational purpose is to create behaviors that lead to enhanced relationships with Tribes, which will allow us to better accomplish the Forest Service Mission:

*Sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.*

# WHY?

- Fulfill recommendations in the Sacred Sites Report

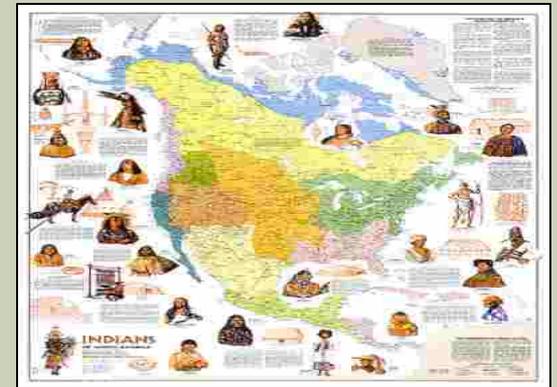
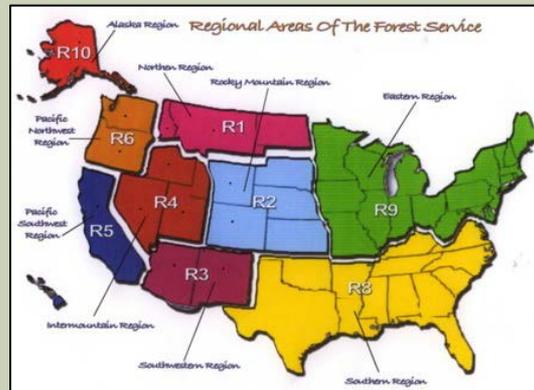
*If we are not successful in accomplishing the purposes of this sacred sites review, we are all diminished. (Joel Holtrop)*

- Comply with the Departmental Regulation on Tribal Consultation
- Incorporate existing authorities, including the Culture and Heritage Cooperation Authority (2008 Farm Bill)



# HOW?

- Full year of internal development by OTR and teams from across the Agency
- Field review and “Red Flag” OGC review prior to sending out for Tribal/ANC consultation
- Direct mailing from WO to all Tribes and ANCs
- Letters to Regions, Stations, and Area from WO
- Consultations at local level for over two years



# CONSULTATION AND COMMENT TIMELINE

- **June 6, 2013:** Consultation with Tribes and Alaska Native Corporations started.
- **July 24, 2015:** Proposed Directives published in Federal Register and Posted on FS Tribal Relations Web Site.
- **September 22, 2015:** End of Tribal/ANC Consultation and 60-day public comment period. Comments must be received in writing.
- **Next Steps:**
  - Content analysis and directives revision – starts immediately after consultation and comment periods.
  - Publication of Final Directives in Federal Register – likely to occur in November, 2015.

# DIRECTIVES

- Expand guidance for developing, maintaining, and enhancing Forest Service's relations with American Indian and Alaska Native tribes
  - Manual Directive: Tells us what to do
  - Handbook Directive: Tells us more about how to do it
- Primary focus is on government-to-government relations

# FSM 1560

## STRUCTURE

- Authority
- Objectives
- Policy
- Responsibility
- Definitions
- Dispute Resolution
- Culture and Heritage Cooperation Authority
  - Reburials, Closures, Forest Products, Prohibition on disclosure
- Information and Technology Sharing
- References

# AUTHORITIES

## (SHORT EXPLANATIONS)

- United States Constitution and Indian Tribes
  - Commerce with Indian Tribes
  - Treaties with Indian Tribes
  - Federal Property Clause
- Treaty Rights and the Federal Trust Responsibility
- Consultation with Indian tribes and Alaska Native Corporations



# AUTHORITIES

- **National Forest System**
  - **Cooperative Land Management and Planning with Indian tribes – ties to 2012 Planning Rule**
  - **Subsistence Rights and Uses in Alaska**
  - **Tribal Cultural Resources and Indian Sacred Sites**
  - **Tribal Forest Protection Act**
  - **Food, Conservation, and Energy Act of 2008, Title VIII, Subtitle B**

# AUTHORITIES

- **Business Operations: Grants, and Agreements, Contracts, and Procurement with Indian Tribes**
  - Government-wide Use
  - Service-wide Use
  - Research
  - State and Private Forestry
  - National Forest System
- **Coordinating Law Enforcement with Tribes**
- **Tribal Colleges and Universities Initiative**

# OBJECTIVES

- Forest Service employees should strive to increase their understanding of and skills in working with:
  - Tribal relations – developing and maintaining effective working relationships
  - Opportunities for contracts, grants, and agreements with Tribes
  - Legally mandated trust responsibilities to consult, coordinate, and communicate with Indian tribes

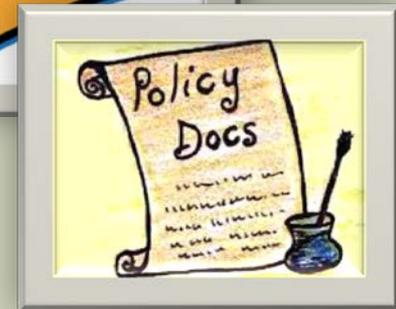
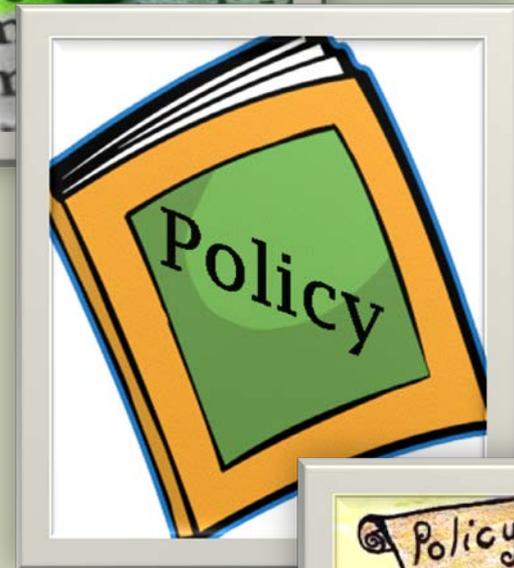


# POLICY

- Sovereignty
- Government-to-government relationship
- Consultation
- Accountability
- Tribal Summary Impact Statement
- Certification
- Negotiated Rulemaking

# POLICY

- Tribal Relations Training
- Confidentiality
- Sharing Information
- Reducing Impediments
- Repatriation
- Reburial
- Education



# RESPONSIBILITY

- **Washington Office**
  - Chief – leadership, oversight, and consultation delegation
  - Deputy Chiefs
    - State and Private Forestry – OTR, SPF, and NLC
    - National Forest System
    - Business Operations
    - Research and Development
  - OTR Director
  - WO Staff Directors

# RESPONSIBILITY

## ■ Field

- Regional Foresters, Station Directors, and Area Director
- Regional Tribal Relations Program Managers
- Forest, Grassland, and Prairie Supervisors
- District Rangers
- Forest, Grassland, and Prairie Tribal Liaisons
- Research & Development Tribal Liaisons
- State and Private Forestry Area Tribal Liaisons

# DEFINITIONS

- **Some key definitions:**
  - **Accountable Process**
  - **Consulting Official**
  - **Meaningful Consultation**
  - **Native Knowledge/Traditional Knowledge**
  - **Policies that May Have Tribal Implications**
  - **Reserved Rights Doctrine**
  - **Sacred Site**
  - **Sacred Place**
  - **Substantial Direct Effect**
  - **Trust Responsibility**

# CONSULTATION

- **Consultation with Indian Tribes and Alaska Native Corporations**
- **General Consultation Requirements**
- **Consulting Official**
- **Consultation Timelines**
- **Consultation, Monitoring, and Evaluation**
- **Additional Consultation Considerations**

# DISPUTE RESOLUTION

- An Indian tribe may seek conflict resolution through the USDA Office of Tribal Relations when:
  1. An Indian tribe engaged in consultation believes that the Forest Service has not appropriately or adequately considered the needs, desires, or requests of the Tribe, or
  2. An Indian tribe believes the Forest Service should engage with them in consultation and the Forest Service has not done so.



## REBURIAL

**USDA and Tribal representatives assembled for the Reburial Ceremony for Shuká Kaa, "Man Ahead of Us", whose remains were discovered on NFS lands and repatriated to Alaskan Native tribes on Prince of Wales Island**



## CLOSURES

Winnemem Wintu  
Coming of Age  
Ceremony

# FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES



# PROHIBITION ON DISCLOSURE

- **The Forest Service shall, to the full extent allowed under the law, maintain the confidentiality of culturally sensitive information provided by Tribes with the express expectation of confidentiality.**

# INFORMATION AND TECHNOLOGY SHARING

- Ecosystems transcend land ownership boundaries
- Exchange of technical and traditional information



# REFERENCES

- This section contains further detail regarding authorities identified in section 1563.01
  - Constitution
  - Treaty and Trust
  - Consultation
  - NFS
    - Planning
    - Subsistence
    - Tribal Cultural Resources and Indian Sacred Sites
    - Tribal Forest Protection Act
    - Culture and Heritage Cooperation Authority
  - Business Operations
  - Law Enforcement
  - Tribal Colleges and Universities Initiative

**FSH 1509.13**

# TRIBAL RELATIONS HANDBOOK

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# CONSULTATION

- **Consultation Processes (Explanatory Section)**
  - Types (single event, multiple events, ongoing)
  - Modes (in-person, correspondence, resolutions)
  - Leveraging Intertribal meetings
- **Consultation Steps (How-to Section)**
  - Establishing Protocols
  - Procedures
- **Monitoring and Evaluation**
  - Program Reviews
  - Including Tribal and ANC officials

# COMPENSATION

- While there are no legal requirements to compensate for consultation or other involvement in Forest Service activities, the Forest Service may elect to provide compensation to Tribes or tribal representatives for extraordinary situations and specialized expertise.

# TRAINING

- **Training Required by Departmental Regulation**
  - Tier 1: SES and key Directors
  - Tier 2: Line Officers and other directly involved personnel
  - Tier 3: All FS employees
- **Training Recommended in the Sacred Sites Report**
  - Catalog existing training
  - USDA training track
  - Training for FS Line Officers and program area staffs
  - Local level training
- **Core Competencies : Knowledge and Skills**

# EXHIBITS

- **Previously at beginning of FSH**
- **Includes full text of**
  - **EO 13175 – Consultation and Coordination with Indian Tribal Governments**
  - **EO 13007 – Indian Sacred Sites**
  - **Culture and Heritage Cooperation Authority**

# AWAKENING AND STRENGTHENING ALL PEOPLE'S CONNECTIONS TO THE LAND

## Questions?

Comments may be sent by email to  
[otr@fs.fed.us](mailto:otr@fs.fed.us)

or by mail to:

**Tribal Relations Directives Comments  
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