

FINAL DRAFT

U.S. Forest Service

Region 5 Tribal Roundtable on National Planning Rule

Location:
Sierra National Forest
Conference Rooms
1600 Tollhouse Road
Clovis, CA

May 4, 2010

Summary Report Prepared By:

Dirk Charley, Tribal Relations Program
Manager, Sierra NF
1600 Tollhouse Rd.
Clovis, CA

and

Stephanie Lucero
Indian Dispute Resolution Services, IDRS Inc.
1325 Howe Ave., Suite 201

I. Executive Summary

Meeting participants in the U.S. Forest Service Region 5 Planning Rule Tribal Roundtable in Clovis, CA represented a range of interests and concerns from 16 Tribal representatives. Over the course of this meeting Tribal participants provided valuable input on proposed principles and the Planning Rule (Rule) revision. Attendees provided in-depth discussion on each of the eight suggested principles for the Rule. Input on the principles varied, but several key themes occurred. These themes included:

- A need for formal consultation with both Federally Recognized and Non-Recognized Tribal governments and integrating the role of Tribes in the Planning Rule. There was confusion and recommendations on how non-federally recognized tribes are treated both in the collaborative process for the Planning Rule and within the general Forest Service (FS) policies regarding consultation.
- Prioritizing “Consultation, Collaboration, and Cooperation with Tribes” in the Planning Rule is considered a very important and integral part of the Rule.
- Sustainable Forest planning requires the integration of tribal traditional knowledge and wisdom in a respectful way.

Introduction

The Central California Regional Tribal Roundtable meeting was held from 1:00 pm to 4:00 pm PDT with approximately 25 participants including 16 Tribal participants, representing ten Indian Tribes engaged in the discussion to deliberate and provide input on the Planning Rule. Flipchart notes and type-written notes captured Tribal Concerns, comments and recommendations as close to verbatim as was possible. These comments are organized and captured under the following headings:

A. GENERAL CONSIDERATIONS:

1. Tribal Consultation.
2. Traditional Knowledge
3. Planning Rule Language and the Collaborative Process
4. Content and Prioritization of December 17, 2009 NOI principles
5. Accountability

B. SUMMARY OF INPUT FOR SUBSTANTIVE TOPICS (FROM NOI)

1. Restoration and Conservation
2. Climate Change
3. Water Quality/Watershed Health
4. Diversity of Species and Wildlife Habitat
5. Contribution to Vibrant Rural Economies

C. SUMMARY OF INPUT FOR PROCESS TOPICS (FROM NOI)

6. Collaboration with the Public
7. An “All-Lands” Approach to Planning
8. Basing Plans on the Latest Planning Science

A packet of information was provided to the participants that contained copies of the following:

- May 4th power point presentation by Ron Pugh, Deputy Director of Ecosystem Planning R5;
- Updated website information “What’s Happening Now”;
- Handouts from the FS Planning Rule National Tribal Conference Call, (dated May 3/2010);
- U.S. Forest Service R5 Roundtable on National Planning Rule – Sacramento Summary Report (dated April 6, 2010);
- U.S. Forest Service - Science Forum Report (dated March 29-20, 2010);
- An email message, dated 5/3/2010, Subject: Planning Rule Practices and Principles: A Native Perspective.
- Email message/reminder and discussion topic ideas received from IDRS Inc. marketing the April 6, 2010 Public Roundtable meeting (dated April 5, 2010);
- Copy of the NOI (dated 12/18/2009);
- A handout featuring “Primary Federal Laws and Executive Orders Directing the Management of Cultural Resources on Forest Service Lands
- Email message with attachment received from Merv George Jr., Region 5 Tribal Relations Program Manager, Subject: USDA Tribal Consultation Plan 2010 – Action Plan.

Note: This same packet of information was mailed out to the teleconference participants for their use and reference.

II. Meeting Overview

- **Meeting Location:** Sierra National Forest Supervisors Office in Clovis, CA.
- **Date of Meeting:** Tuesday, May 4, 2010. From 1:00 pm to 4:00 pm.
- **Tribal participants in attendance:** Johnny Dick, member and Reba Fuller, Government Liaison for the Tuolumne Band of Me-Wuk Indians; Robert Robinson of the Kern Valley Indian Council; Mary Motola, of the Picayune Rancheria of Chukchansi Indians; Christina McDonald and Christi Hansard of the North Fork Rancheria of Mono Indians; Florence Dick and Ben Charley Sr., Tribal Chair of the Dunlap Band of Mono Indians; Ron Goode, Tribal Chair of the North Fork Mono Tribe; and Brian Rueger, Tribal Forester of the Tule River Indian Reservation.
- **Tribal representatives attending via teleconference:** Tribal Chair, Robert Marquez, Lonnie Bill, Eric Smith and Jeffrey Lee of the Cold Springs Rancheria of Mono Indians; Pete Ramirez of the California Valley Miwuk Tribe; Kenneth Woodrow, Tribal Chair of the Wuksachi-Michahai Tribe.
- **Regional Forest Service Staff:** Rob MacWhorter, Acting Deputy Regional Forester, Ron Pugh, Deputy Director Ecosystem Planning, and Joe Stringer, Director of Ecosystem Planning.

- **National FS staff – including Planning staff:** Susan Exline, Sierra Public Affairs Officer, Cindy Whelan, Sierra Forest Planner, Doug McKay, Sierra Forest Heritage Resource Program Manager, Kathy Strain, Stanislaus N.F., Forest Heritage Resources Program Manager/Tribal Relations Program Manager and Dirk Charley, Sierra/Sequoia Tribal Relations Program Manager.
- **National FS staff attending via teleconference:** Sarah Johnston, Inyo National Forest - Heritage Resources Program Manager/Tribal Relations Program Manager and Margaret Wood, Inyo N.F., South Zone District Ranger.
- **Website/email addresses posted on the flip charts:**
 - Planning Rule (old) www.fs.fed.us/r5/planningrule
 - Region 5 Tribal Relations Program Manager, Merv George Jr., mgeorge@fs.fed.us, (707)562-8919
 - <http://blogs.usda.gov/usdablogs/planningrule>
- **Points of Contact for the Worksheet Summarizer:**
- The lead facilitator was Ms. Stephanie Lucero from the Indian Dispute Resolution Service (IDRS) Inc.
- Local U.S. Forest Service, Sierra N.F. staff contributed additional facilitation/coordination services via room set-up; audiovisual set up; note taking and teleconference management.
- Name of person(s) completing these notes: Dirk Charley, Sierra N.F. and Debra Whittall, Ph. D. Social Scientist, Forest Service, Region 5, with oversight review by Stephanie Lucero, IDRS Inc.
- Contact number for Ms. Lucero, Phone: (916) 482-5800 or cell phone: (916) 505-0177. Email: stephanie@idrsinc.org
- Contact number for Mr. Charley, Phone: (559) 297-0706, Ext. 4805 or cell phone (559) 288-3529. Email: dcharley@fs.fed.us
- Contact number for Ms. Whittall, Phone (707) 562-8823. Email: dwhittall@fs.fed.us

III. Summary of Input and Discussions

Discussion Topics are listed in order of discussion, not priority. Comments where language was agreed to by participants is identified in Quotes, clarifying language is identified in brackets and italics [].

A. GENERAL CONSIDERATIONS

1. Tribal Consultation.

The Planning Rule should clarify how to address consultation with Recognized Tribes vs. Non-recognized Tribes.

- Consultation with federally recognized Tribes vs. non-recognized Tribes varies from region to region.

- The Planning Rule should define the rules [both collaboration and formal consultation] for working with federally recognized vs. non-recognized Tribes. Will there be a national policy or will the policy be different between areas?
 - The Planning Rule better define how consultation will occur with federally recognized vs. non-federally recognized.
 - “Equality of comments is discussed, but congress only recognizes federally recognized Tribes, so how do the non-federally recognized Tribes get their concerns discussed. We (Non-federally recognized Tribes) are being recognized as the general public, but we are not on the same level. How do non-federally recognized get their comments (from the roundtable [and elsewhere]) treated the same way as the federally recognized Tribes?”
- FS needs to define its position on tribal consultation for NEPA?
 - What are the NEPA requirements for recognized and non-recognized Tribes?
 - NEPA, or planning rule process, or laws out of congress, leave out non-federally recognized Tribes. State recognized Tribes fight to get the same recognition as the federally recognized Tribes.

RECOMMENDATIONS:

- The Planning Rule should clarify how to address consultation with Recognized Tribes vs. Non-recognized Tribes?
- Use the California state definition of consultation which includes everyone under one heading.
- The National, regional and local consultation policy needs to be the same.

2. Traditional Knowledge.

- “Principle #9. Traditional knowledge [is] NOT “science” but has equal or greater weight.”
- “No analysis of Traditional Knowledge. Just Trust and Respect it.”
[Clarification: this quote was in direct relation to discussion about FS quantifying and analyzing Traditional Knowledge from a scientific perspective.]

3. Planning Rule Language and Collaboration Process.

- “Principle #10 - Cultural resources. Don’t put cultural as part of social.”

- “Cultural issues should stand alone. They are not a part of the social or economic dimensions. Cultural does not mean just sites. It also means resources and land use.”
- [Planning Rule] Needs [a better] definition of “cultural” and “social.”
- “Cultural is more traditional and spiritual and all native interests.”
- “Social [interests] should include recreation.”

[Clarification: These comments were based on a general discussion regarding who picked the scientists for the science forum as well as why cultural interests were combined with social interests in the NOI.]

RECOMMENDATION:

- Planning Rule must have Clearer language (limited scientific terms, better definitions for terms like “ecological driver” or “landscape,” definition of language and terms like “landscape” should come through traditional tribal understanding of terms.
- “Cultural issues should stand alone. They are not a part of the social or economic dimensions [of planning]. Cultural does not mean just sites. It also means resources and land use.”
- Tribal interests (i.e. cultural interests) should not be combined with social or recreational interests to land use in the language of the Planning Rule. Cultural/tribal interests should stand alone at a higher priority to other uses (i.e. social/recreational) of the land.
- A good definition of “cultural” could strengthen native interests. It would also cross over federally recognized and non-federally recognized rights. “We have laws that define these things to protect our needs.”
- “Management is a bad word, not inclusive. Develop a word that is more inclusive and takes into consideration” that you are not managing the land you are “working with the land.”
- Planning Rule should state that Management plans “should” (not “Could”) include the principles identified by the forum in the priority identified.

4. Content and Prioritization of December 17, 2009 NOI principles:

- “#9 Principle: should be the #1 priority/principle [under the Planning Rule]: Consultation, Collaboration, and Cooperation and with Tribes.”
- “#9 [i.e. Consultation, Collaboration, and Cooperation with Tribes] includes: Spiritual leaders, cultural leaders, and elders and practitioners.” [see further discussion on “Traditional Knowledge.”]
- Tribal input falls on “deaf ears”.

- FS prioritizes economy over everything else to the detriment of Forest and species health.

RECOMMENDATION:

- “Tribes’ input from the consultation and collaboration process should have [take] precedence.”

[General discussion point was that input from Tribal entities in collaboration or consultation should have more weight over the public and scientific communities.]

- The definition of a Spiritual leader is NOT UP TO FS!!!! Identification of Spiritual leaders, cultural leaders, and elders and practitioners “needs to be [determined] through Consultation, Cooperation and Collaboration with Tribes and Tribal communities.” *[Clarification: there was discussion as to the fact that Spiritual leaders, cultural leaders, elders and practitioners are not always linked to tribal governments hence the inclusion of “tribal communities.”]*
 - “Having Tribal Liaisons Mandatory.” *[Clarification: This was directly related to the discussion of conducting Consultation, Cooperation and Collaboration with both Tribes and Tribal communities.]*
 - Nationwide, tribal liaisons should be established to make sure these things happen and the Tribes are getting more involved.

RECOMMENDATION

- #1. Consultation, Collaboration, and Cooperation with Tribes.
- #2. Maintenance and Restoration of Watershed Health.
- #3. Climate Change.
- #4. Diversity of species and Wildlife Habitat.
- #5. Restoration. *[Clarification: “Restoration and Conservation” are separate principles you cannot do both simultaneously.]*
- #6. Conservation. *[Clarification: “Restoration and Conservation” are separate principles you cannot do both simultaneously.]*
- #7. “All lands” Approach to Management Plans.”
- #8. Contribution to Vibrant Rural Economies.
- #9. Latest Planning Science.
- #10. Collaboration with the Public.

5. Accountability

- The planning rule should include and respect all laws that pertain to and protect tribal interests.

B. SUMMARY OF INPUT FOR SUBSTANTIVE TOPICS (FROM NOI)

Principle 1: Restoration and Conservation

- “It [Restoration and Conservation] is related to Watershed Health.” Restoration improves watershed health.
- “Restoration & Conservation do not go together.” [*Clarification: “Restoration and Conservation” are separate principles you cannot do both simultaneously.*]
- “Restoration [means], enhancing & sustaining lands.”
- 4th and 5th in level of tribal priorities.
- Restoration, Conservation, Climate Change, Maintenance of Watershed Health, and Diversity of Species and Wildlife Habitat are all separate issues but also sometimes related/interconnected.

RECOMMENDATION:

Tribal Consultation, Collaboration, and Cooperation should be done for anything that involves sustainability of forests. Fuels, vegetation management, the tribal perspective and Tribes need to be included.

Principle 2: Climate Change

- “Climate change & Watershed go hand in hand.” Restoring the watershed would have an effect on climate change. Climate change is worldwide, watersheds are not. Caring for the watershed can help our situation now.
- Climate Change is “Affecting species diversity.” It is creating hybrids.
- 3rd in level of priorities.
- Restoration, Conservation, Climate Change, Maintenance of Watershed Health, and Diversity of Species and Wildlife Habitat are all separate issues but also sometimes related/interconnected.

RECOMMENDATION:

Tribal Consultation, Collaboration, and Cooperation should be done for anything that involves sustainability of forests. Fuels, vegetation management, the tribal perspective and Tribes need to be included.

Principle 3: Maintenance and Restoration of Watershed Health

- “Climate change & Watershed go hand in hand.” Restoring the watershed would have an effect on climate change. Climate change is worldwide, watersheds are not. Caring for the watershed can help our situation now.

- 2nd in level of priorities only after consultation, collaboration, cooperation with Tribes.
- Restoration, Conservation, Climate Change, Maintenance of Watershed Health, and Diversity of Species and Wildlife Habitat are all separate issues but also sometimes related/interconnected.

RECOMMENDATION:

Tribal Consultation, Collaboration, and Cooperation should be done for anything that involves sustainability of forests. Fuels, vegetation management, the tribal perspective and Tribes need to be included.

Principle 4: Diversity of Species and Wildlife Habitat

- Climate Change is “Affecting species diversity.” It is creating hybrids.
- “Endangered species (wildlife & plant) cannot be protected to the detriment of other [plant and animal] species.” [sometimes management for Threatened & Endangered species can go overboard. Management damages the habitat or takes over and species are disappearing.]
- “Management should not drown out Native Plants.”
- 4th in level of tribal priorities.
- Restoration, Conservation, Climate Change, Maintenance of Watershed Health, and Diversity of Species and Wildlife Habitat are all separate issues but also sometimes related/interconnected.

RECOMMENDATION:

Tribal Consultation, Collaboration, and Cooperation should be done for anything that involves sustainability of forests. Fuels, diversity of species/habitat, vegetation management, the tribal perspective and Tribes need to be included.

Principle 5: Contribution to Vibrant Rural Economies

- “Sustainable forests require Tribal consultation and collaboration.”
- “Goods and services drive the forest service” [the suggestion was that this prioritization of goods and services from the Forest is counter to tribal priorities and the interests of forest and watershed restoration.]

C. SUMMARY OF INPUT FOR PROCESS TOPICS (FROM NOI)

Principle 6: Collaboration with the Public

- “Tribes are NOT the public”
- “Further dialogue to ensure non-federally recognized Tribal chairs, that are not here, how can they be sure to be included within the rule planning process?”
- “Need definition of Forest Service position for NEPA working with Tribes, National consistency with Regional and Local Forests [policies].”
- See Also: “General Considerations: Tribal Consultation and Planning Rule Language and Collaboration Process.”

Principle 7: “All Lands” Approach to Management Plans

- “Consistency between Administrative units in Management plans.”
- “All lands approach should exclude sacred lands. There should be special guidelines, identification, and consultation for sacred lands.”
 - [Sacred lands should have separate] “Stewardship guidelines. Separate identification and incorporation [into management plans].”
- “All lands” [needs to be better] defined. It could say that it must address all types of lands. It is not clear what that means? It could be specific to a region, or an area, or what? ”
- “Management is a bad word, not inclusive. Develop a word that is more inclusive and takes into consideration’ that you are not managing the land you are ‘working with the land.’”
- “Management is what has gotten us to the point where we are now. Something is protected and there is an unanticipated domino effect based on a management decision. We can look back at management decisions and see the far reaching effects.”
- “Planning rule needs to include [take into consideration] all laws that pertain to native peoples.”

RECOMMENDATION

- “Recommend use of a Special Interest Areas designation (SPA) [for sacred lands].”
- “[Planning Rule must] emphasize the confidentiality [of sacred lands] and limit access [to sacred lands] by the public and FS.”

Principle 8: Latest Planning Science

- “Cultural issues should stand alone. They are not a part of the social or economic dimensions. Cultural does not mean just sites. It also means resources and land use.”
- “‘Landscape Planning’ needs to better defined”

- “How does ‘landscape’ planning affect administrative units? Does this infer that the boundaries between existing forests be blurred? How do you do a landscape approach with the line (administrative boundary) on the map? How do you do collaboration with other agencies outside the FS boundaries?”
- Includes traditional, cultural, spiritual knowledge. See General Considerations.

RECOMMENDATION:

- On landscape planning: The line within the forest – one ranger district gets moved to another ranger district can change the involvement of new players, desires and wants. Changing the district line can change everything. There needs to be a consistency between Ranger Districts.
- “Landscape [should be] defined better. [Use→] Tribal Traditional Cultural Property (TCP).”

IV. Conclusion

Tribal leaders in Central California/Sierra Nevada geographic area want to be fully engaged in any future discussions related to the National Planning Rule as well as Forest Plan updates in their area. They provide valuable Traditional cultural knowledge input for the Rule Writing Team to consider: improving government-to-government consultation and coordination, integrating traditional cultural knowledge into plans, striking a balance between a strategic and directive plan, and embracing the diversity of Region 5’s people, wildlife and landscapes. Tribal interests and input should be given significant weight and authority in the Planning Rule, specifically Tribal Consultation, Collaboration, and Cooperation should be identified as a priority as well as defining the processes for implementing tribal consultation with Federally Recognized, Federally non-recognized and state recognized Tribes.