

Monitoring Question

Is Superior National Forest (SNF) management helping to sustain American Indians' way of life, cultural integrity, social cohesion, and economic well being? Are Government to Government Relationships Functional? Is the SNF Facilitating the Right of the Tribes to Hunt, Fish, and Gather as Retained via Treaty?

Monitoring Conducted

Objective. O-TR-1 Improve relationships with American Indian tribes in order to understand and incorporate tribal cultural resources, values, needs, interests, and expectations in forest management and develop and maintain cooperative partnerships projects where there are shared goals. **Objective. O-TR-3** The Forest Service will work with the appropriate tribal governments to clarify questions regarding the use and protection of miscellaneous forest products with the objective of planning for and allowing the continued free personal use of these products by band members within the sustainable limits of the resources. **Objective; O-TR-4** Consult, as provided for by law, with Tribes in order to address tribal issues of interest and National Forest management activities and site-specific proposals.

Consultation with Tribal Governments

During Fiscal Year (FY) 2006, Fond du Lac, Bois Forte, and Grand Portage Bands of the Lake Superior Ojibwe, and the 1854 Treaty Authority (1854 Treaty Authority represents Grand Portage and Bois Forte Bands) were kept informed of projects on the SNF. They received the Superior Quarterly which provides a written report of activities that will occur each quarter and were consulted individually on projects of specific interest. The goal of the SNF was to let the Tribal Chairs and 1854 Treaty Authority know what the SNF was planning in the very early stages to see if they had any concerns or thoughts about a project and to spend time together to talk over any issues. It is appreciated and recognized that the SNF is part of the ceded territory and that tribal members use the area for hunting, fishing, gathering forest products, recreating, and other cultural activities. During 2006, project consultation and government-to-government contacts were made in the following programs, projects and incidents:

Forest Heritage Program. SNF staff consulted with the Bands on the Heritage annual program of work, and discussed all projects in advance of commencing the project, including proposed Passport In Time (PIT) projects. Staff also reviewed the Heritage Annual Report of Work Completed and provided results of the completed projects to the Bands. Heritage staff is working to complete a programmatic agreement on heritage consultation with the Bands, the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation.

Burial Sites. Monitored all known burial sites to ensure they are neither impacted nor vandalized.

Big Rice Wild Rice Meeting. Coordinated with 1854 Treaty Authority

Moose Lake Access. Participated in a field trip with 1854 Treaty Authority to find a designated access to the Lake, and subsequently built the trail.

Tommila Lake Access for Wild Ricing. Took a field trip with 1854 Treaty Authority to locate a good access across public land to the lake, which is known for its wild rice.

Walleye Assessment on Cadotte Lake Through Electro Shocking. Assisted 1854 Treaty Authority.

East Zone Travel Management Project. Consulted with the Grand Portage Band and 1854 Treaty Authority. The Gunflint District Ranger had several discussions with the Grand Portage Tribal Chair to ensure coordination and that the SNF is not taking a direction that would negatively affect Grand Portage.

Regional Forester Sensitive Species (RFSS). Coordinated on survey and inventory efforts to identify individuals and populations, as well as continued to establish long-term RFSS population monitoring sites in the Kawishiwi, St. Louis, Dark, and Cloquet Rivers.

Non-native Invasive Plant Management Environmental Assessment (EA). Consulted with the 1854 Treaty Authority on the Forest-wide EA. SNF staff designed the project to incorporate Tribal concerns about herbicide treatments of weeds near wild rice lakes.

South Fowl Trail and Vegetable Chain Projects. The Gunflint District Ranger met with the Grand Portage Tribal Chair.

Sugar Bush Thinning Project. Tribes were sent a scoping letter.

Devil Trout Vegetation Management Project. The Gunflint District Ranger met with the Grand Portage Tribal Chair. Separate meetings were held with the 1854 Treaty Authority to address their concerns regarding how the proposal affected treaty rights, specifically those relating to hunting access and moose and white tail deer habitat. Those concerns could not be appropriately addressed at the project level, particularly the policy to close temporary roads upon completion of their use for timber sale access, and the maximum acres of harvesting set in the 2004 Superior National Forest Plan. The issue and discussions have been elevated to a Forest-wide discussion and are on-going.

Chikwauk PIT Project. Consulted with Tribes to ensure there were no concerns.

Sand Lake PIT Project and archeological excavation. Consulted with Tribes to ensure there was no cultural sensitive area, nor burial site in the project area.

Echo Trail Project. Tribal consultation occurred with 1854 Treaty Authority personnel. Concerns discussed included the effects of the project on the Tribal Communities in regards to game species and hunting, the tribes' use of and access to the area, and protection of heritage resources. The Selected Alternative will not adversely affect the wildlife or fish populations, heritage resource sites or tribal members' use of this area.

Whyte Project. Tribal consultation occurred with the Bois Forte Tribal Council and with the 1854 Treaty Authority prior to sending out the Scoping Proposal. The 1854 Treaty Authority had concerns about closing a road. After discussions, an alternative access route was located.

Air Quality. Project consultation and government-to-government contacts were made with the Leech Lake Band, the Mille Lacs Band, the Fond du Lac Band, and the 1854 Treaty Authority on issues specific to air quality and related issues including regional haze, mercury monitoring, and impacts on air quality from new industrial sources. There is on-going collaboration, coordination of programs, planning and monitoring on these issues.

Evaluation and Conclusions

The nature and amount of government-to-government interactions with Tribal entities in FY 2006 was typical of ongoing collaboration efforts between the Superior National Forest and the Bands of the Ojibwe. These interactions occurred through government-to-government consultation, discussions based on National Historic Preservation Act Sections 106 and 110, discussions based on National Environmental Policy Act compliance, collaborative agreements, project implementation and specific and ongoing meetings. The SNF continued to consult, engage, and cooperate with the Tribes at the project and program level during 2006. Forest Plan objectives were met, yet the opportunity exists for more proactive government-to-government interaction and collaboration to actively facilitate the rights of band members to hunt, fish and gather.

Standards and Guidelines

Seven tribal rights Standards and Guides (S&G's) were monitored during 2006. Two of the Standards and Guidelines (S-TR-1 and S-TR-5, Forest Plan p. 2-38) address consultation, three (S-TR-3, S-TR- 4, and G-TR-3, Forest Plan p. 2-38) address tribal interests in designing projects, and two (S-TR-6 and 7, Forest Plan p. 2-38) address Tribal interests in environmental documents. All seven of the monitored S&G's were adequately met. However, all the S&G's could and should be more fully implemented during 2007 and beyond. See Appendix F for further discussion.

Necessary Follow-up Actions and Management Recommendations

Follow-up Actions

SNF staff have the opportunity to take a more proactive role in facilitating the exercise of rights of Ojibwe band members on the Superior National Forest. 1854 Treaty Authority continues to broach the issue of how proposed actions affect treaty rights in the ceded territory, specifically those rights relating to hunting access and moose and white tail deer habitat. They feel those concerns have not been adequately addressed in project decisions. SNF staff views this as an issue to be addressed across the entire SNF and in the Forest Plan, particularly the policy to close temporary roads upon completion of their use for timber sale access. Discussions on these issues are ongoing.

The SNF needs to better develop and conduct processes that consistently track and document the work done that is done each year to maintain lands within the SNF that help to sustain American Indians' way of life and economic well being. Efficient tracking and documentation would better show the work done and gage the effectiveness of SNF efforts throughout the year. Specific follow-up actions are as follows:

- * The SNF has the opportunity to pursue working with the 1854 Treaty Authority resource specialist and other tribal specialists to accomplish monitoring relating to common resource interests and treaty rights.
- * Address concerns raised by the 1854 Tribal Authority on treaty rights in the ceded territory, specifically those rights relating to hunting access and moose retrieval.

Management Recommendation

The Forest Interdisciplinary Team identified one Management Recommendation as follows:

- * The Forest Plan desired condition (D-TR-3) states that the Superior National Forest facilitates the exercise of the right to hunt, fish and gather as retained by Ojibwe whose homelands were subject to treaty in 1854 and 1866. The SNF is accomplishing consultation efforts with the bands, yet the opportunity exists for more proactive government-to-government interaction and collaboration to actively facilitate the rights of band members to hunt, fish and gather.

Collaborative Opportunities To Improve Efficiency And Quality Of Program

The SNF will coordinate with Fond du Lac, Grand Portage, and Bois Forte Ojibwe bands as well as the 1854 Authority. Monitoring efforts would relate to common resource interests and facilitated treaty rights. Through cooperating on these monitoring efforts, there is a potential to further develop collaboration with Ojibwe bands to help sustain the American Indians' way of life, cultural integrity, social cohesion and economic well-being.

Summary Conclusion

- * Project consultation and government-to-government contacts were made in the following programs, projects and incidents: the Forest Heritage Program, Burial Sites, Big Rice Wild Rice Meeting, Moose Lake Access, Walleye Assessment on Cadotte Lake, East Zone Travel Management project, Regional Forester Sensitive Species surveys, Non-native Invasive Plant Management EA, South Fowl Trail and Vegetable Chain projects, Devil Trout Vegetation Management project, Chikwauk PIT project, Sand Lake PIT project and archeological excavation, Echo Trail project, Whyte project, and Air Quality project.