

## TRIBAL RIGHTS AND INTERESTS

### Key Points

- As projects were planned, staff from the Superior National Forest (SNF) increased efforts to inform Tribal Chairs, staff and 1854 Treaty Authority of the projects so Tribal governments could work with the SNF to develop proposals and actions.
- During FY 2008, Bois Forte, Fond du Lac and Grand Portage Bands of the Lake Superior Ojibwe, and the 1854 Treaty Authority (representing the Grand Portage and Bois Forte Bands), were consulted about SNF projects.

### A. MONITORING AND EVALUATION

#### Forest Plan Direction

This monitoring was conducted in an attempt to address Forest Plan 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, Forest Plan 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 resource and Forest Plan 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.

#### Monitoring Conducted

##### Overview

Forest-wide projects and programs were reviewed to ensure that government to government consultation occurred, with an emphasis on conversations prior to requesting input from the general public. Consultation is documented in the Forest Service correspondence database, National Environmental Policy Act (NEPA) and other project files and in Tribal consultation meeting minutes.

The Superior National Forest (SNF) staff expanded efforts to inform Tribal Chairs, staff and 1854 Treaty Authority during project planning to provide Tribal governments the opportunity to comment on project proposals. Meetings were held at all levels, including elected officials, Tribal Chairs and Councilors, various tribal staff, the Forest Supervisor, District Rangers, and District and Headquarters staff. Meeting settings included working one-on-one and in small groups with Band members and representatives as each entity attempted to improve communication and coordination.

## 11.2 Tribal Rights and Interests

During Fiscal Year (FY) 2008, a number of specific items were monitored for project consultation between the SNF and the Bands. Examples of inter-governmental contacts to discuss programs, projects and incidents included: Forest heritage program, Forest vegetation management projects, wildlife and fisheries management, lands projects, travel management, minerals and mining, Community Wildfire Protection Plans (CWPP), employment outreach, campground use, stewardship contracting and access issues. The following are programs that highlight the depth of the relationship between the tribes and the Forest.

### Forest Heritage Program

SNF staff consulted with the Bands on the Heritage annual program of work, including discussions on National Historic Preservation Act Sec 106 and 110, pre-public scoping and NEPA, and as needed to carry out collaborative agreements and implement projects. Heritage program highlights in FY 2008 include the following:

- A formal Programmatic Agreement regarding heritage consultation with the Bands, State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation was signed by the Bois Forte Tribal Chair, the Grand Portage Tribal Chair, and the SNF Supervisor.
- A Participating Agreement was signed stipulating that a heritage survey would be done for portions of Washington Island by the 1854 Treaty Authority Archaeologist in cooperation with the Bois Forte Band.
- Recorded burial sites were monitored to insure no impacts are occurring through SNF projects or visitor use of the adjacent areas. At one burial site, a ceremony was conducted by a Native American Religious Advisor with SNF, Bois Forte, and 1854 Treaty Authority staff in attendance. The site was closed to camping.
- SNF heritage employees continued interaction with the Bands at their annual SHPO meeting as well as other consultative meetings throughout the year.
- The 1854 Treaty Authority archaeologist worked with Lake Superior Community College Field School students and SNF heritage employees to re-map several known heritage sites and to map the location of several previously unknown heritage sites.

### Forest Vegetation Management Projects and Resource Issues

SNF staff consulted with the Bands on a variety of vegetation management projects during the pre-public scoping and NEPA stages of the project. There was an increased effort to consult with the Bands prior to requesting input on projects from the general public. This effort follows government to government practices. The FY 2008 SNF landscape assessment and NEPA schedule were distributed and discussion was held on the best ways to gather information from each governmental entity. The purpose was to discover areas of concern and to mitigate such concerns while preparing project plans. Examples of projects and resources that were discussed during government to government consultation included the following:

#### Cascade, Tracks, Clara, Glacier and the Border Projects Consultation

Consultation included preliminary discussions, such as in the Tracks project where the SNF sought tribal input in the early stages of the project. Consultation also included detailed meetings such as in the Border Project where discussions with tribal representatives on the Purpose and Need and Proposed Action. The Tribes commented on the types and amounts of activities to include in the draft Proposed Action and to include their comments prior to public scoping. A summary of Forest Plan direction for vegetation and transportation projects was also given. Bois Forte had specific concerns regarding access and biomass availability as they are looking into a biomass project. Maintaining access to popular wild rice areas was also noted. Additional interest from the Band was expressed in trying to determine how to design timber sale contracts where tribes and others could be notified on how to collect birch bark and balsam boughs prior to an area being harvested.

#### Wildlife & Fisheries Management Consultation

There was an increased effort by Tribal, DNR and SNF biologists to better understand each group's management goals, methods and processes. Items of mutual interest included the following: information sharing (Geographical Information System (GIS) shapefiles, inventory, SFRMP and Forest Plan etc.), habitat goals (i.e., patches, cover types, disturbance regimes), wildlife improvements (i.e., wildlife openings, rice lake management, impoundment, shallow lake inventory and waterfowl refuges and tree planting), hunting and recreation opportunities (i.e., hunter walking trails, watchable wildlife sites, website information, environmental education programs), roads and access coordination, hunter access, impact of Canada lynx, deer, and moose management and aquatic organism passage.

#### St. Louis County Community Wildfire Protection Plan (CWPP)

Consultation with Bois Forte and Fond du Lac fire staff occurred throughout the development of the CWPP. Fond du Lac reservation is a Fire-Wise community and was able to help other communities through their experience. They have completed hazard assessments on band and non-band lands.

#### Mining and Mineral Prospecting

There has been on-going consultation in regards to the proposed PolyMet copper/nickel/cobalt/precious metals mining and processing project. Discussion on the details of the process, where the SNF administers the surface and the Bureau of Land Management (BML) administers the sub-surface (mineral rights), continue as the parties explore a land exchange and other options. The Bands conveyed general and specific interest and concerns in mining and mineral prospecting with the Polymet project for the Environmental Impact Statement (EIS).

#### Stewardship Contracting

There were several meetings with the Bands discussing stewardship contracting and agreements. The Reservation is interested in working with the SNF and has a construction company as well as the ability to do logging.

## 11.4 Tribal Rights and Interests

### Forest Land Program

Government to government consultation with the Bands included discussion on individual projects as well as an in-depth overview of the SNF lands process and five year plan prior to public scoping. The South Kawishiwi Cabin Group, Lake County Rifle Lake, Crane Lake Sustainable Land Corporation and the proposed Polymet land exchanges were discussed in detail, while the overview led to discussions on tribal interests pertaining to all land exchanges. The 1854 Treaty Authority, Bois Forte, Grand Portage, Fond du Lac, and Great Lakes Indian Fish and Wildlife Commission, tribal representatives stated their main interests in land exchanges are the following: to retain or increase the amount of public land within the 1854 Treaty Ceded Territory, shoreline wetlands, culturally important natural resources used in exercising treaty rights of hunting, fishing and gathering, cultural or religious properties, access to culturally important natural resources and to cultural or religious properties. SNF staff will continue to determine effects that potential land exchanges would have on Band members exercising their Treaty rights before land exchange decisions are made.

### Employment outreach

The SNF coordinated with Tribal entities, Grand Portage, 1854 Treaty Authority, Fond du Lac Tribal and Community College to develop ways to inform Band members of employment opportunities with the Forest Service and how to apply.

### **Evaluation and Conclusions**

As projects were planned, staff from the Superior National Forest (SNF) increased efforts to inform Tribal Chairs, staff and 1854 Treaty Authority of the projects so Tribal governments could work with the SNF to develop proposals and actions.

During FY 2008, Bois Forte, Fond du Lac and Grand Portage Bands of the Lake Superior Ojibwe, and the 1854 Treaty Authority (representing the Grand Portage and Bois Forte Bands), were consulted about SNF projects. The SNF Supervisor, District Rangers and program specialists periodically met with Tribal elected officials, Band members and staff, and 1854 Treaty Authority personnel. The Bands 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 Bands also received information on individual SNF projects.