

Forest Service Planning Rule
Tribal Workshops
Southwestern Region 3

Summary of Discussion

Facilitated and summarized by:

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Tribal Workshops on the Forest Planning Rule

To afford tribal governments in this region an opportunity to learn about and comment on the Forest Planning Rule revision process, Regional Forester Corbin Newman invited the 55 tribes in the region to an informal conversation. This was not intended to be formal government-to-government consultation, but rather an additional forum where tribes and the Forest Service could exchange information and ideas, and where communication and collaboration could be realized. The points raised during these four workshops are summarized in the following document.

Southwestern Region 3 -- Tribal Workshops:

- April 27, 2010 Pojoaque, New Mexico
- April 28, 2010 Albuquerque, New Mexico
- April 28, 2010 Phoenix, Arizona
- April 29, 2010 Flagstaff, Arizona

This report covers the roundtable in Pojoaque, New Mexico.

**FOREST PLAN RULE, SOUTHWESTERN REGION 3
TRIBAL WORKSHOP
Poeh Center, Pojoaque, New Mexico
April 27, 2010, 9:00 – 11:00 am**

Summary of Discussion

Facilitator/recorder: Lucy Moore

Note takers: Dan Meza and Yolynda Begay

Tribal Representatives:

Norman Jojola – Natural Resources Manager, BIA/Northern Pueblos Agency
Albert R. Cata – Native American Radio Producer
Lawrence Cata – Assistant Director, Ohkay Owingeh
Charles Lujan – Director, Natural Resources, Ohkay Owingeh
Christy VanBuren – Tribal Administrator, Picuris Pueblo
Luther Martinez – Director, Picuris Pueblo

Forest Service Staff:

Corbin Newman – Regional Forester, Southwestern Region 3
Dan Meza – Office of Tribal Relations Liaison, FS Region 3
Daniel Jiron – Forest Supervisor of Santa Fe National Forest
Michelle Aldridge – Assistant to the Regional Forester
James Melonas – New Mexico FS 3 State Liaison for New Mexico
Gilbert Zepeda – Deputy Regional Forrester
Yolynda Begay – Assistant to Regional Social Scientist, FS Region 3
Bob Davis – Director of EAP & Watershed, FS Region 3

Welcome, Introductions, Presentations:

Lucy welcomed the tribal representatives, described the agenda and asked participants to introduce themselves.

Regional Forester Corbin Newman expressed his appreciation to the group for taking time to have this informal conversation with him and his staff. Secretary of Agriculture Vilsack and Chief Forester Tidwell both gave welcoming remarks by video. Bob Davis, Director of Planning, gave a powerpoint presentation describing the rule revision process.

Overarching themes:

The group identified three overarching themes at the end of the discussion that they felt were critical to a successful relationship with the Forest Service.

Policy v. Regulation: Which issues of concern to tribes can be handled at the policy level, either nationally or regionally or at the forest level? Which issues will require changes in the rule, or changes in the law?

Traditional Knowledge and Culture: How can the Forest Service, at all levels, integrate local traditional knowledge and cultural needs into its planning process?

Consultation Process: How can the Forest Service respond to tribal demands for a more legitimate, meaningful consultation process – one that involves them early on, that insures face to face discussion and the potential to change the plan or project, and that is offered in the spirit of respect and true collaboration?

Discussion:

Consultation:

Participants spoke of the limitations of consultation and their hope for a more meaningful process both for the development of this revised planning rule, and for the development of forest plans that are governed by the planning rule.

Timing:

There was concern about the integrity of the government-to-government consultation process as it exists with many federal agencies, including the Forest Service. Consultation, said participants, needs to occur at the beginning of the process, and certainly prior to the draft document. By then, it seems to tribal representatives, it is too late and there is no chance of changing the plan. The decision is made, they say, and their comments are just “stuck in the back of the document.”

They say they are echoing the sentiments of tribes all over the country, who feel that consultation is nothing more than “lip service.”

Process:

A letter does not equal consultation, said participants. A letter may be a request to meet face to face with tribal officials, but if the meeting does not occur, then consultation does not exist. The FS staff need to visit the tribe, see the resources, discuss the issues and listen with an open mind. When a tribe has comments, the agency must respond to those comments in a meaningful way.

Intent:

Tribes hope that the Forest Service will approach them for consultation in a spirit of respect and with a willingness to learn, and that their decisions on the plan or project will include the interests of the tribe.

Relationship between tribes and Forest Service:

There was appreciation expressed for this workshop. “Thanks to Forest Service for coming down to the grassroots level during the planning process.” But there was also a strong message that more communication and collaboration is needed, and that there should be follow-up from this meeting. “We do not want our thoughts or comments to end up in a basket.”

Tribal representatives urged FS staff to visit regularly and to open up new lines of communication – to “sit down and talk.”

Some said that understanding tribal sovereignty was critical to a good relationship. They recommended that FS staff be trained in the basics of tribal history and sovereignty, so that they

could distinguish between tribal rights and local government interests. In one participant's opinion, a county commissioner receives more respect than a tribal leader.

All new staff are trained in tribal sovereignty issues at national trainings. Participants suggested the concept of local, community-based orientations as well, utilizing expertise from local tribes.

Collaborative and cooperative management – an all-lands approach:

Ohkay Owingeh has a bosque as well as tribal trust lands split between two national forests. The Pueblo has completed its forest management plan and land use plan, but the pueblo plans are not compatible with the two Forest Service plans. These administrative boundaries are a barrier to good land management. Just how all this can be coordinated is a big challenge for both sides.

Tribal representatives explored with FS staff ways of cooperatively managing across these boundaries. There are many projects that are undertaken on one side of the boundary, but would be much more successful if implemented on both sides, such as weed and insect control. It would be both practical and cost effective, they said, to cooperatively manage lands and address such problems in a coordinated way.

Participants urged the FS to recognize early on tribal land management plans, and integrate them into the FS planning process, by collaborating with tribal staff. This kind of outreach and collaboration will reduce litigation, they said.

Many felt that there was little or no collaboration between the Forest Service and the BIA. This puts tribes at a terrible disadvantage.

Planning rule components: A participant underlined the three themes in his opinion for the Planning Rule: Proactive Management, Education Component, and Communication Component.

Flexibility:

Participants recommended that the new rule offer flexibility and the ability to adapt to changes in a proactive way. Each tribal community and each region is different, they pointed. National policy needs to be broken down regionally to reflect the dynamics of that particular region

A more efficient planning process: Participants observed that early and meaningful consultation and conversation is the way for a more efficient planning and project implementation process. Issues that can arise later will be resolved early on, and potential litigation can be avoided. "Think outside of the box and into the future, like Natives."

Policies as constraint:

Some felt that the Forest Service, at both the regional and forest levels, offers little or no flexibility in dealing with other entities, including tribes. They seem to be governed by policies that often lead to a "spinning our wheels" situation. This rule, like others, feels like a constraint not an opportunity, another limit on flexibility and adaptability. Instead of a proactive policy based on leadership and flexibility, this seems to be a reactive policy.

Tribal representatives spoke about the differences between policy and law. The revised rule will serve as a regulation, implementing the National Forest Lands Management Act. Participants

were interested in the leeway that FS staff at the national, regional, or local levels might have to change old policies or develop new ones.

Traditional cultural knowledge:

Participants pointed out that traditional knowledge cannot produce the same type of results as the hard sciences. “We cannot give you a graph and statistics on culture.” But this kind of knowledge and expertise is critical in understanding the resources. They recommended that traditional culture and community-based knowledge be included in the revised rule. Where the rule might refer to science-based evaluations or decisions, they urge that FS leadership make the effort to include this local expertise and work with local people. They added that this should be true not just for tribal communities, but for other traditional rural land-based communities throughout the country.

Respect for tribal and traditional needs and interests on FS lands:

The Ole power line which was built in 1992 by Public Service Company of New Mexico is a painful example of disregard for tribal sacred lands. The line, which goes through the Jemez mountains, crosses sites sacred to several communities. Although the Pueblos and other neighboring communities like Gallina and Coyote protested the project, it was built.

In another example, a sacred site was destroyed to make way for a motocross track.

Tribal representatives asked that the Rule include provisions for tribal and other traditional communities to have access to FS lands during certain times of the year for certain purposes, like gathering of boughs for ceremonies or herbs and roots for healing. Rich with sacred sites, shrines, lakes and other religious sites, these lands are considered tribal “homelands,” although they are now owned by the Forest Service. When a tribal member needs access to these sites or resources it is critical that it be granted.

Picuris Pueblo observed that tribal elders needed permits to gather traditional resources, but that other users, like PNM, did not need permits for their activities.

NEPA:

NEPA poses a barrier to tribal projects – projects which could benefit both tribal and federal lands. Although funding (such as CFRP) is available to tribes, the requirement to complete NEPA analyses is an unfunded mandate. Tribes do not have the money for the costly process. A further problem is the apparent disconnect between the BIA and FS NEPA processes. The BIA is able to meet the NEPA requirements for a tribe, but it is a long wait for tribes wanting that assistance, and it is not clear whether or not the Forest Service will accept the BIA NEPA. If the tribe enters the FS NEPA process then the information and documents are all subject to public scrutiny through the Freedom of Information Act. This can be very detrimental to a tribe’s need for confidentiality relating to sacred sites and traditional cultural properties. The BIA NEPA does not have to include identification of these properties in the same way.

Endangered Species:

Tribal representatives are concerned that tribal trust lands may be designated as habitat for endangered species. They assert that the tribal homelands are by custom and culture more

protective of species than public lands, but that once the homeland is designated as habitat, then the tribe has to “jump through hoops.” They ask that the applicability of ESA to tribal lands be evaluated at the national level.

Climate Change: Pueblo spokespersons said that climate change is impacting cultural lands, and asked that the Forest Planning Rule address these global changes.

Concluding Remarks:

Regional Forester Newman expressed his appreciation to the tribal representatives for their honesty and openness. He learned a great deal, he said, and looked forward to working together with tribes and pueblos in a collaborative way. He realized that tribes and pueblos have historical, cultural and spiritual ties to the homeland which must be honored. He added that he believed the new rule should include a designation for traditional cultural properties.

He committed to taking the message about improved consultation practices to his leadership in Washington, and he promised to communicate the results of that conversation to tribal representatives. He also takes very seriously, he said, the suggestions about collaborative planning across boundaries, and the need for ongoing communication and staff training.

Summary prepared by Lucy Moore. Please contact her with comments or questions.
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