

Sonia Tamez

August 23, 2010

Ms. Janie Hipp

Senior Advisor for Tribal Relations

U.S. Department of Agriculture

1400 Independence Avenue, SW

Room 500-A Whitten Building

Washington, DC 20250

Dear Ms. Hipp,

I appreciate your interest in strengthening the relationship between Tribes, the Forest Service (FS) and the Department of Agriculture (Department). I want to follow-up on previous discussions regarding tribal consultation. As you know, I strongly support the administration's emphasis on tribal consultation and collaboration. I am concerned about the lack of an explicit tribal consultation strategy for the FS Land Management Plan Rule and how draft rule documents have addressed tribal rights and interests.

As you know, I am a FS retiree and had the honor of working with Tribes for over 30 years. I served as a Regional Tribal Relations Program Manager and the Region's Land Management Plan Coordinator under a previous rule. I also led a task force to develop the agency's first consultation policy to be included in manual direction. More recently, I had the benefit of participating in the Fourth Roundtable for the Forest Service (FS) Planning Rule in Washington, DC. (July 29-30, 2010) and had the opportunity to share my initial perspectives.

I first want to recognize that the FS is doing a lot more than it did in previous rules to engage Tribes. I commend the talented and dedicated people at all levels of the department and the agency and their efforts to promote roundtables, conference calls, listening sessions and take other actions to involve Tribes. However, the agency write-ups on "Collaboration", "Diversity", and other topics, indicate two areas that need attention and action:

1. Development of an explicit consultation strategy that will not only elicit comments from Tribes, but will also indicate how those comments will reach decision-makers and be responded to in the draft planning rule.

2. Acknowledgement of the unique government-to-government relationship with Tribes, associated trust obligations and tribal rights.

In the documents I have seen to date, tribal consultation is lumped in with public collaboration and consequently diluted. The planning documents reference consultation and collaboration, but fail to address how the agency will undertake these actions for the planning rule and its implementation.

There is an urgent need for an explicit tribal consultation strategy worked out with tribal leaders that is responsive to tribal protocols, transparent, accountable and acknowledges the higher duty the agency has to Tribes. I do not have any recommendations for a particular process; that needs to be worked out with Tribes, who may have already communicated their protocols and entered into consultation agreements with the agency. I will mention that in my previous roles, we consulted and collaborated with Tribes and undertook a number of approaches that worked at the time: tribal council briefing sessions, leadership summits, listening sessions, and formal consultation with designated representatives of the decision-maker.

Regarding the current draft rule, tribal consultation and collaboration will be more effective when the agency's documents can reflect the relationship between the federal government and recognized tribal governments. References to Tribes as "users" and other similar terms ignore the trust responsibilities the agency has regarding tribal rights and diminishes Tribes' political, governmental and cultural role for stewardship of their own forests and ancestral forests now managed by the FS. While treaty rights merit the highest respect, the planning rule also needs to acknowledge other rights that Tribes may have, e.g., water rights, which are often superior to that of other governments or individuals.

Much of the general process and substance of tribal consultation has been laid out in the FS's own "Report of the National Tribal Relations Program Task Force" and the follow-up "Report of the National Tribal Relations Program Implementation Team" with the subsequent FS Manual Direction (1563). The principles and processes laid out in these documents are relevant today. I hope that this letter assists in developing a planning rule that reflects the best collaboration and consultation between Tribes and the FS. Please let me know how I might help.

Sincerely,

Sonia Tamez