

MEMORANDUM OF UNDERSTANDING

between the
THE SITKA TRIBE OF ALASKA
and the
USDA FOREST SERVICE,
TONGASS NATIONAL FOREST

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby entered into by and between the USDA Forest Service, Tongass National Forest, hereinafter referred to as the Forest Service, and the Sitka Tribe of Alaska, a Federally recognized Tribal government, hereinafter referred to as the STA. This MOU replaces Agreement No. 01MU-111005-034.

A. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to establish a general framework of cooperation; exchange of information; establishment of regular and meaningful consultation and collaboration with the STA and District officials concerning actions and projects on the Sitka Ranger District (District); and identification of common goals between the Forest Service and the STA recognizing the unique relationship and obligations based on the trust responsibility the United States Government has with Alaska Native and Native American Tribal Governments.

B. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Forest Service recognizes that a trust responsibility with American Indians and Alaska Natives derives from the historical relationship between the Federal government and Tribal governments as expressed in treaties, statutes, Executive Orders, Federal Indian case law, and inherent rights of Alaska Native peoples. Nothing listed in this MOU or attachments infringes or lessens the inherent rights of either party. Using these underpinnings, the Forest Service and the STA will work in a mutually cooperative relationship building on trust, mutual respect and enhanced communications by both parties to further a government-to-government relationship.

The Forest Service manages National Forest System lands. The STA manages its Tribal affairs across ecosystem boundaries which they have historically used and occupied. The STA and the Forest Service have information and resources that may be of mutual interest, concerns and benefit to both parties.

It is the intent of both parties to cooperate and share information, whenever appropriate, regarding implementation of programs and projects in which both parties have mutual interest and/or concern based on a government-to-government relationship.

C. THE STA SHALL:

1. Explore opportunities to provide mutually beneficial cultural, historical, and traditional knowledge and experiences across the ecosystem that was historically and continues to be inhabited by Tribal citizens and their families.
2. Provide advice and/or recommendations, as appropriate, to the Forest Service of STAs needs and concerns regarding management of National Forest System lands.
3. Whenever possible, cooperate with the Forest Service in the planning, implementation and monitoring of mutually beneficial projects and programs subject to applicable Federal laws and regulation.
4. Subject to applicable laws and regulations, enter into separate agreements or contracts with the Forest Service and/or other parties, as appropriate, such as, the Kayaani Commission, the Cultural Committee and the Customary and Traditional Use Committee, to accomplish the agreed upon programs and projects arising from this MOU.
5. Assign a Tribal liaison officer who shall be responsible for the coordination of the routine communications and activities between the STA and the Forest Service.
6. Designate the Tribal Council Chair (or, in his absence, the Vice-Chair) as the primary point of contact for STA. This person will be responsible for signing official correspondence.
7. Designate decision authority with the entire Tribal Council or General Manager, depending on the nature of the decision.
8. Provide the Forest Service with a list of Tribal Council members, titles, and contact phone numbers and email addresses. Provide updates to these lists as a result of new elections or job transfers.
9. Provide the Forest Service with an annual summary report of joint activities and project accomplishments, with any specific proposals and priorities for the coming fiscal year.
10. Communicate with the Forest Service early and throughout the process regarding activities, projects, and programs on National Forest lands that are of interest and concern to the STA.

D. FOREST SERVICE SHALL:

1. Explore opportunities to make Forest Service knowledge, information, and professional and technical expertise available for the furtherance of this agreement, subject to the applicable Federal laws, regulations, and Forest Plan direction for the affected area and subject to approval by the Forest Supervisor or designated representative.

2. Whenever possible, cooperate with the STA in the planning, implementation and monitoring of mutually beneficial projects and programs.
3. Assign a Forest Service liaison officer who shall be responsible for the coordination of routine activities between the Forest Service and STA.
4. Designate the District Ranger as the primary point of contact for the Forest Service. The Ranger shall be responsible for the coordination of routine communications, signing official correspondence and overseeing all activities between the Forest Service and the STA. Decision authority will reside with the District Ranger or the Forest Supervisor, depending on the nature of the project decision.
5. Empower their heads of staff to have some recommendation authority while working collaboratively on projects.
6. Provide a list of Forest Service Interdisciplinary Team leaders (IDT) by project, their work phone numbers and email addresses to the STA. Provide updates to these lists as a result of new employees, assignment changes or job transfers.
7. Communicate with the STA early and throughout the process regarding activities, projects, and programs on National Forest lands that are of interest and concern to the STA.
8. Attend monthly Sitka Tribe of Alaska Council meetings and present an oral report of Forest Service activities.
9. Be guided by its manuals, handbooks, applicable laws, regulations, and consideration of the inherent rights of Alaska Native people in carrying out the objectives listed in this MOU.
10. Administer Forest Service programs and activities with sensitivity to traditional Native American/Alaska Native religious beliefs and practices.
11. If the District Ranger is aware of actions occurring on or around the District, such as, the Bureau of Land Management working on entitlements through the Alaska Native Claims Settlement Act (ANCSA) or Alaska National Interest Lands Conservation Act (ANILCA), the District Ranger will bring known information to STA's attention.
12. Strive to notify the STA of all requests it receives from Alaska Native Claims Settlement Act Corporations, private companies, and private or public organizations.
13. Strive to provide the STA with notice of projects at least 30 days before general public scoping commences. This may not always be possible with some projects due to legal timelines or other restrictions.

14. Subject to applicable laws and regulations, enter into separate agreements or contracts with the STA and/or other parties, as appropriate, such as, the Kayaani Commission, the Cultural Committee and the Customary and Traditional Use Committee, to accomplish the agreed upon programs and projects arising from this MOU

E. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. Lines of communication, the scheduling of meetings and periodic reviews of this MOU will meet the elements below:
 - a. Meetings will be scheduled during times that allow the greatest opportunity for attendance by the target audience. The primary points of contact will meet to discuss limitations of time, day, and conflicting event schedules of their respective agencies.
 - b. The primary points of contact will call for agenda items one week before scheduled meetings, including types of information needing to be presented at the meeting.
 - c. The primary points of contact will provide meeting agendas to the appropriate members of their organizations three days prior to the meeting.
 - d. The primary points of contact will arrange meeting facilities to accommodate the group size two weeks prior to a meeting.
 - e. The primary points of contact will meet at least annually to review and evaluate this MOU and determine whether amendments are necessary. Mutually agreeable modifications to this MOU can be made at this time if both parties are in agreement on such changes.
2. Meetings will be managed according to the following guidelines:
 - a. A meeting host will be identified and will be responsible for facilitating the execution of the meeting. The host will identify a meeting recorder who will compile notes capturing decision elements and recommendations made during the meeting. The transcribed notes will then be distributed through the primary points of contact for clarification and edits. Final notes will be provided to the STA and the Forest Service.
 - b. Changes to the meeting agenda can be made if both the District Ranger and Tribal Council agree.
 - c. The meetings will be cordial and respectful to all persons in attendance. If either party receives rude, insulting or disrespectful treatment, an adjournment will be requested and the meeting be rescheduled.
 - d. In the event of the need to cancel a meeting due to unforeseen events, both parties shall strive to provide at least one day prior notice.
3. All parties shall strive to work collaboratively to pool knowledge and information using the following guidelines, these areas are, but not limited to:
 - a. The District and the STA shall provide laws, regulations, policies and direction that the District and the STA should work under.
 - b. The District will provide the best available information to be used in project analysis. Both parties must realize that data does change as a result of new information.
 - c. Some collaboration may take place in working meetings with designated staff, committees,

- tribal citizens, interdisciplinary teams, and decision makers.
- d. The District and the STA agree to provide a person and/or subject matter expertise to address issues raised during public meetings, if necessary. Information presented will need to be made available for project planning records in agreed upon formats.
 - e. The District and the STA agree to work to meet timelines set for projects.
 - f. The District and the STA will strive to work together to enhance Native employment and training opportunities.
 - g. Both parties shall strive to recognize and abide by sacred sites policy, application, consultation language, and protective clauses for sacred sites.
 - h. Both parties shall share the extent of the heritage inventory, traditional ecological knowledge, and previous work with the STA Native American Graves Protection and Repatriation Act (NAGPRA) committee.
4. Notification shall be given of activities on National Forest System lands, particularly at sites of traditional harvesting, cultural and religious activities, and other gathering activities, at least 30 days prior to the commencement of the 30-day public scoping period. The following steps will describe our agreed upon consultation process:

Step 1: The District identifies and describes the projected activities that require National Historic Preservation Act (NHPA) Section 106 review; fall under the National Environmental Policy Act (NEPA), such as, Environmental Impact Statements (EIS) or an Environmental Assessment (EA); and requests if respective project has tribal implications and if there is a need for tribal consultation with STA.

Step 2: The STA will review the EIS or EA proposal and inform the District whether or not they wish to enter into consultation on the project or continue to be informed as the project progresses. This review and response should be accomplished by the end of the public scoping period. This means that the STA would have at least 60 days to consider a project (notice at least 30 days before public scoping and then 30 days during public scoping). If the District does not receive a written response through a letter or email from STA within this timeframe, the District would assume there is no interest in project consultation. The STA may request additional meetings to clarify information during this project proposal review.

If during the life of the EIS or EA additional new substantive information is made known, Steps 1 and 2 would be repeated offering 30 days to respond to the new information.

Step 3: Formal consultation will involve face-to-face meetings between the decision maker from the STA and the project deciding officer from the Forest Service.. These officers will discuss how the project has incorporated the existing information and why; determine the future direction of the project analysis; and make clear what can and cannot be agreed upon. The deciding officers may redirect their sub-staffs to conduct additional collaborative work.

The deciding officer and the STA Council may mutually agree to have other Forest Service personnel and tribal liasons review and try to reconcile disputes.

5. If the STA declines consultation, they will continue to have the same opportunities to comment as the general public. The intent is to not over burden STA with meetings over projects that have no special interest to the tribe. Declination of consultation does not infringe on any rights of either party.

The following are agreed upon definitions of terms for this MOU:

Collaboration: Working together to share information, points of view in a joint, trusting, intellectual effort on District matters of tribal implication. Collaborative information is held in confidence between the District and the STA and is generally not shared with the public other than the decisions agreed upon.

Meaningful: To have it be made clear that the shared information, points of view, staff work and meetings have been fully considered in the rendering of a decision on a project that has tribal implications within the constraints of existing law, policy and regulation. Meaningful may not mean complete agreement on an issue or decision.

Consultation: A process that enables the STA to provide and receive meaningful, early and timely input and as appropriate, exchange views, information and recommendations on District actions that may affect interests by the STA prior to a decision. This process involves effective two-way communication throughout the project.

Timely: Timeliness includes the knowledge of the project timeline, and how to collect STAs concerns during most appropriate time for consideration to maintain the project timeline.

6. Either party, in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration.
7. This MOU in no way restricts the Forest Service or the STA from participating in similar activities with other public or private agencies, organizations, tribes, and individuals.
8. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement, contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Specifically, this MOU does not establish authority for noncompetitive award to the Cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

9. The principal contacts for this instrument are:

Carol Goularte
District Ranger
Sitka Ranger District
204 Siginaka Way
Sitka, AK 99835
phone- 907-747-4278
fax- 907-747-4253
e-mail- cgoularte@fs.fed.us

Lawrence Widmark, Jr
Tribal Council Chairman
Sitka Tribe of Alaska
456 Katlian Street
Sitka, AK 99835
phone- 907-747-3207
fax- 907-747-3207
e-mail- widmark@mail.ssd.k12.ak

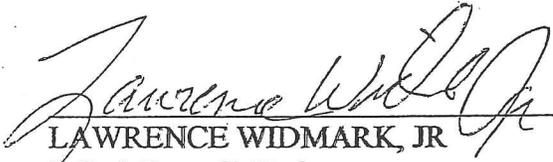
10. The Department of Agriculture and the STA and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
11. By signature below, the STA certifies that the individual listed in this document as representatives of the STA are authorized to act in their respective areas for matter related to this MOU.
12. Modifications within the scope of the MOU shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.
13. This MOU is executed as of the last date shown below and expires on **September 30, 2011** at which time it will expire unless extended.

THE PARTIES HERETO have executed this agreement as of the date of last signature.

SITKA TRIBE OF ALASKA

THE TRIBAL NAME

L.R.A. Tribal Council

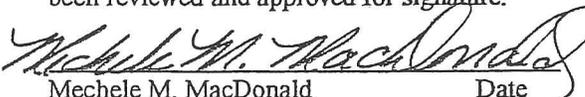

LAWRENCE WIDMARK, JR. 9-19-06
Tribal Council Chairman Date

USDA FOREST SERVICE

TONGASS NATIONAL FOREST


FORREST COLE 4.19.06
Forest Supervisor Date

The authority and format of this agreement has been reviewed and approved for signature.


Mechele M. MacDonald 4/13/06
Agreements Specialist Date