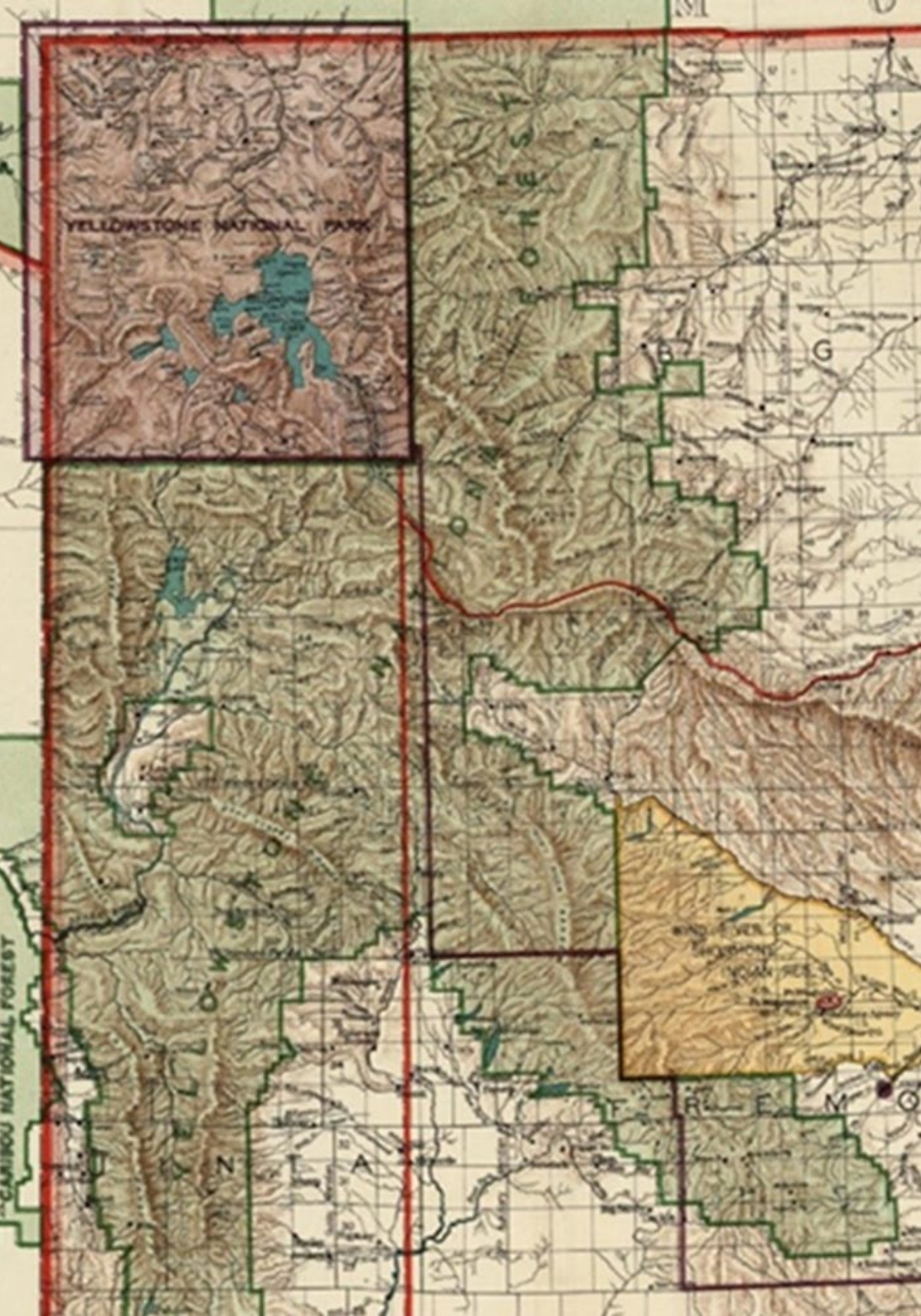




Indigenous Stewardship of National Forests: Case Study Report

Professors Monte Mills
& Martin Nie

First Nations
Development Institute
Webinar, Oct. 29, 2025

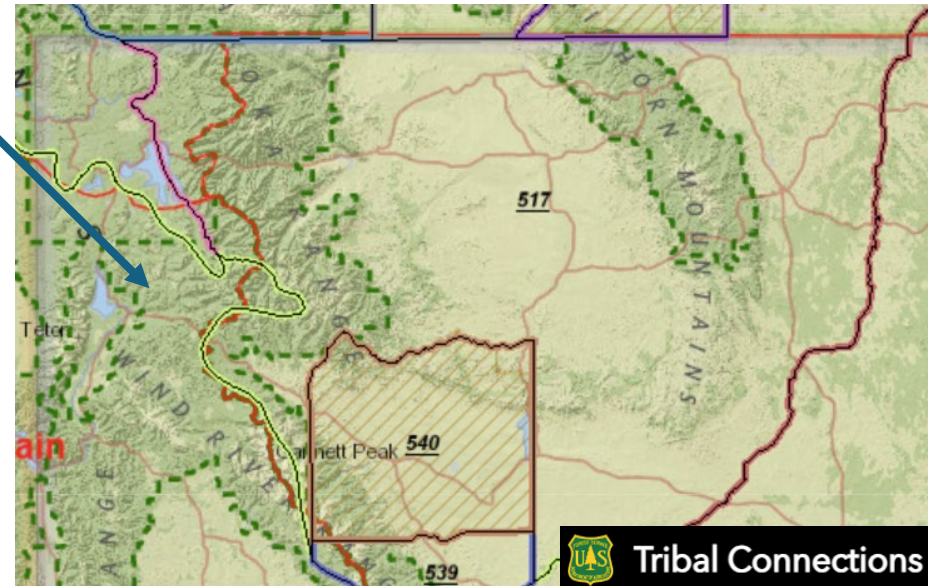


Indigenous Stewardship of National Forests: Introduction to Case Study Report

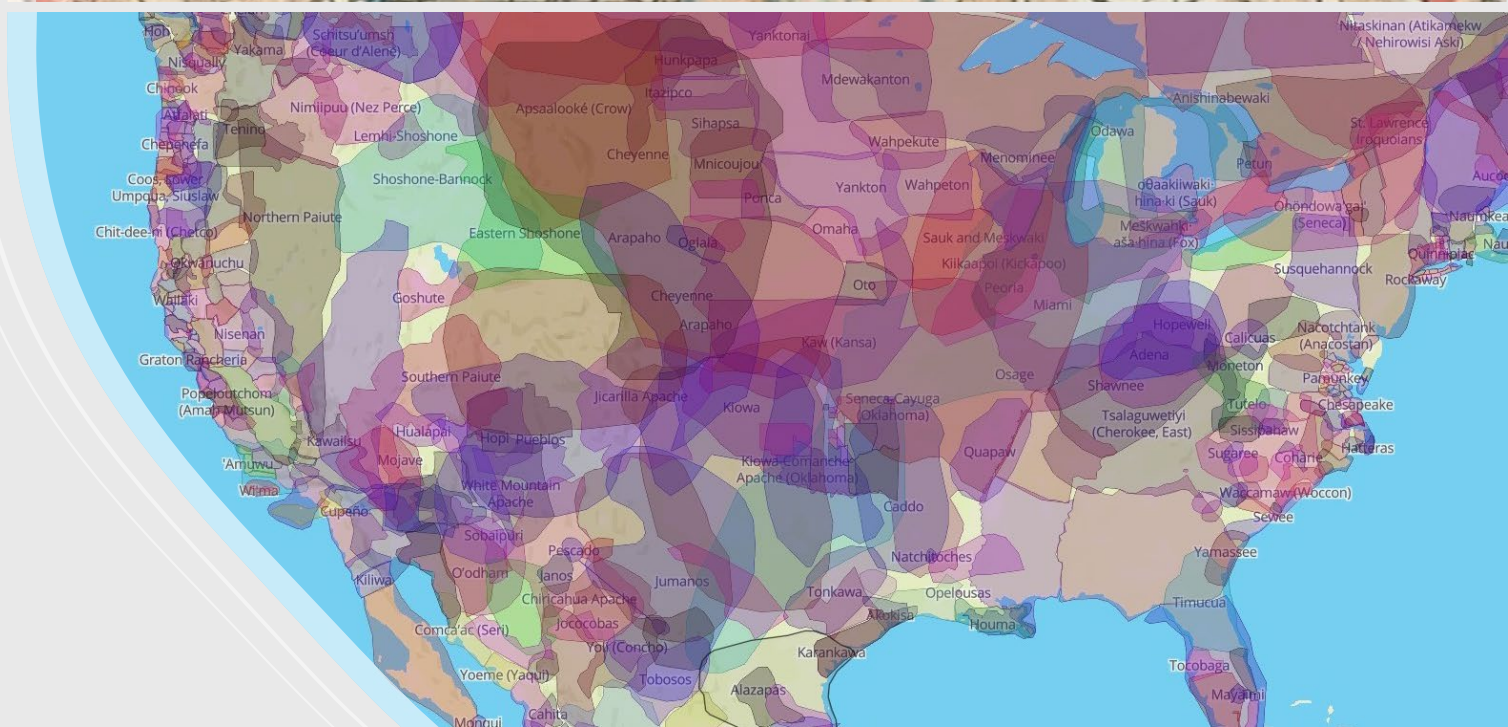
- Brief historical and legal context, with a focus on sharing (and not sharing) management on the National Forests.
- Legal anchor points for Tribal “Co-Stewardship”
- Secretarial Order 3403 (Tribal Co-Stewardship)
- Review some common themes in MOUs & Agreements




Where most histories of the National Forest System begin...



First Forest "Reserves" (e.g., Yellowstone), and then others, based on ceded and unceded territory





1908 NATIONAL FORESTS

THEODORE
ROOSEVELT





“A mighty pulverizing engine to break up the tribal mass”
President Theodore Roosevelt (1901)

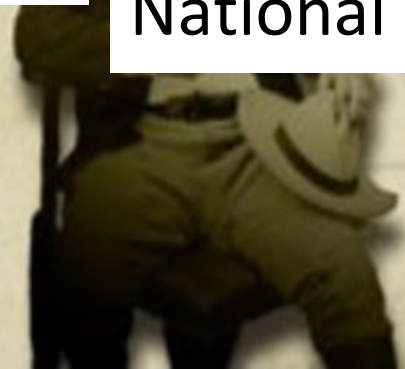
The President defends the Dawes Act.

In my judgement the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. . . . Under its provisions some sixty thousand Indians have already become citizens of the United States. We should now break up the tribal funds, doing for them what allotment does for the tribal lands; that is, they should be divided into individual holdings. . . . A stop should be put upon the indiscriminate permission to Indians to lease their allotments. The effort should be steadily to make the Indian work like any other man on his own ground. . . .

-1872-Yellowstone

-1887 General
Allotment (Dawes)
Act

-1891 General
Revisions Act
(creation of
National Forests)

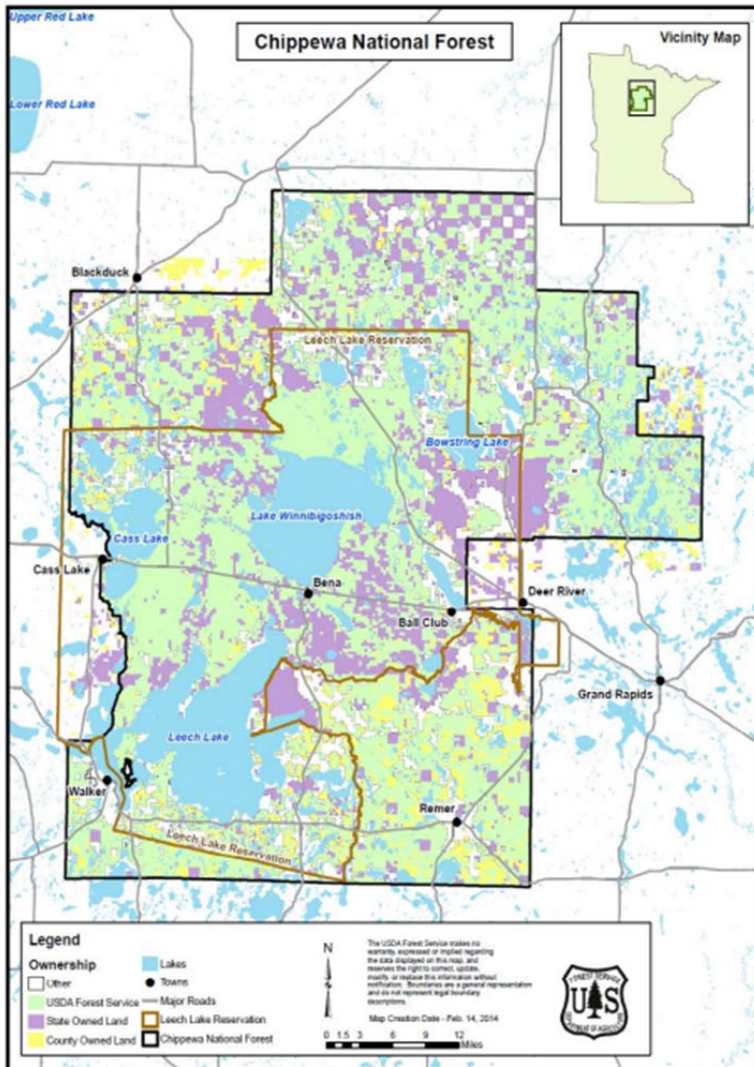


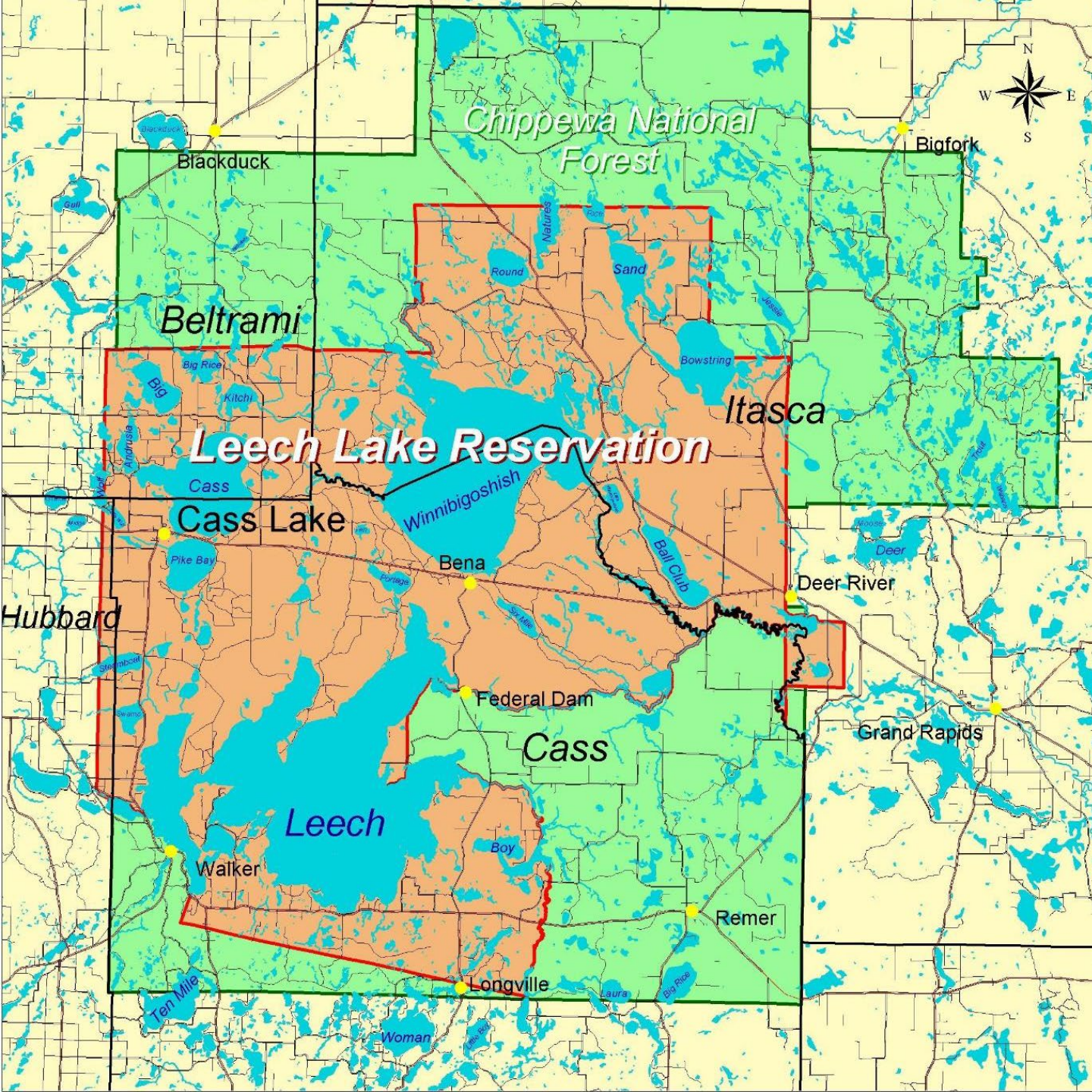
AMERICAN INDIANS AND NATIONAL FORESTS



Theodore Catton

“At the same time that Roosevelt and Pinchot built up the National Forest System, they also played a major role in shrinking the Indian estate. **From 1905 to 1909, the National Forest System increased in size by around 97 million acres, while allotment led in fairly short order to Indians’ loss of around 86 million acres.**”





Map Legend

-  Leech Lake Reservation
-  Chippewa National Forest
-  County
-  Lakes
-  Stream/River
-  Major Highway
-  County Highway
-  Township Road



Tribal Co-Stewardship and Management in the Context of “Cooperative Federalism”

History of sharing management, revenue and decision making (with States, not Tribes)

Example: Laws that reserve and/or extend authorities to States, cooperative provisions, sharing revenue with State governments

From 1891 (creation of NFS) to 1976 (NFMA): Tribal rights and interests on NFS lands not referenced in any statute conferring cooperative authority to USFS.





Ineligible Partners: Tribal Nations and Cooperative Federalism in the Historical Development of National Forest Law and Policy

By James Baker

M.S Resource Conservation

University of Montana W.A Franke College of Forestry

Martin Nie (Chair, CFC), Kekek Jason Stark (Law), Brian Chaffin (CFC), Michelle Bryan (Law)

<https://scholarworks.umt.edu/>

Eras in Federal Indian Policy

Eras in Federal Public Land (and National Forest) Law

Allotment/Assimilation (1887-1934)

-Forest Reserves Act (1891); USFS Organic Act (1897)

-1908 Act (Timber revenue sharing)

-Weeks Act (1911)

-Clarke McNary Act (1924)

Termination (1940s-1960s)

Granger-Thye Act (1950); Cooperative Forest Management Act (1950)

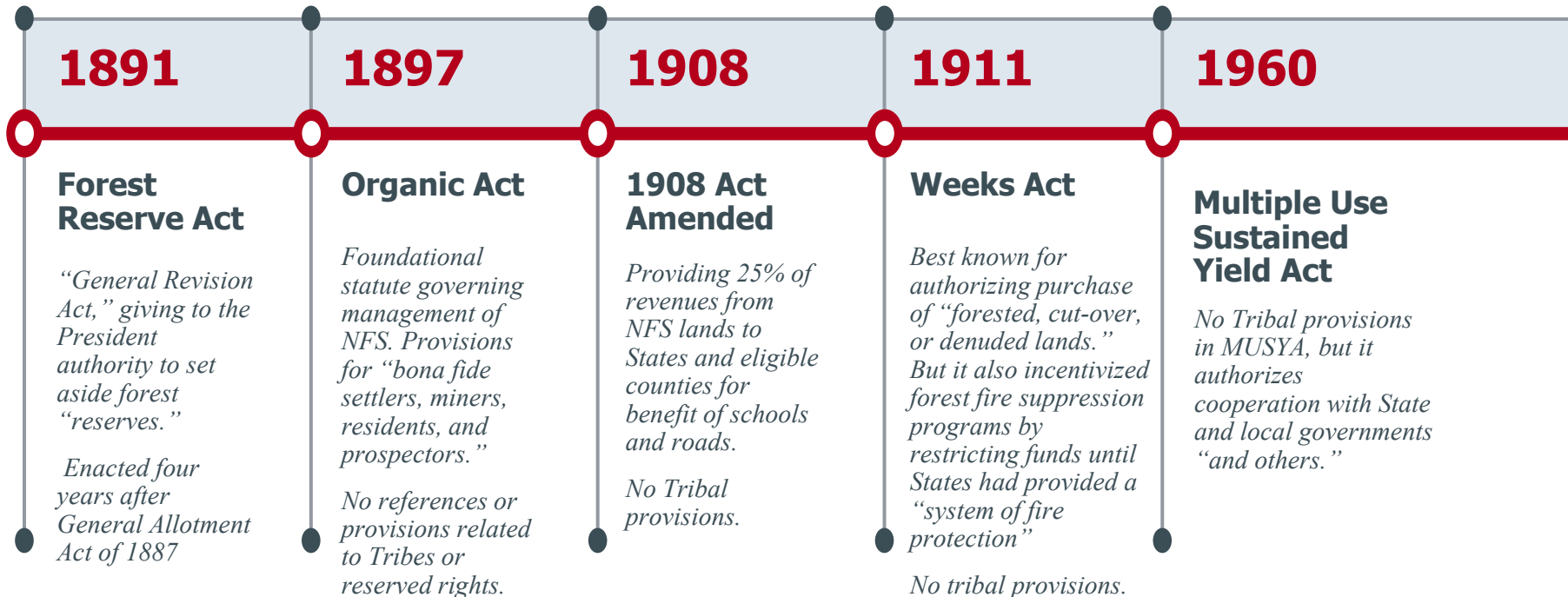
Multiple Use Sustained Yield Act (1960)

Self-Determination (late 1960s-present)

National Forest Management Act (1976)

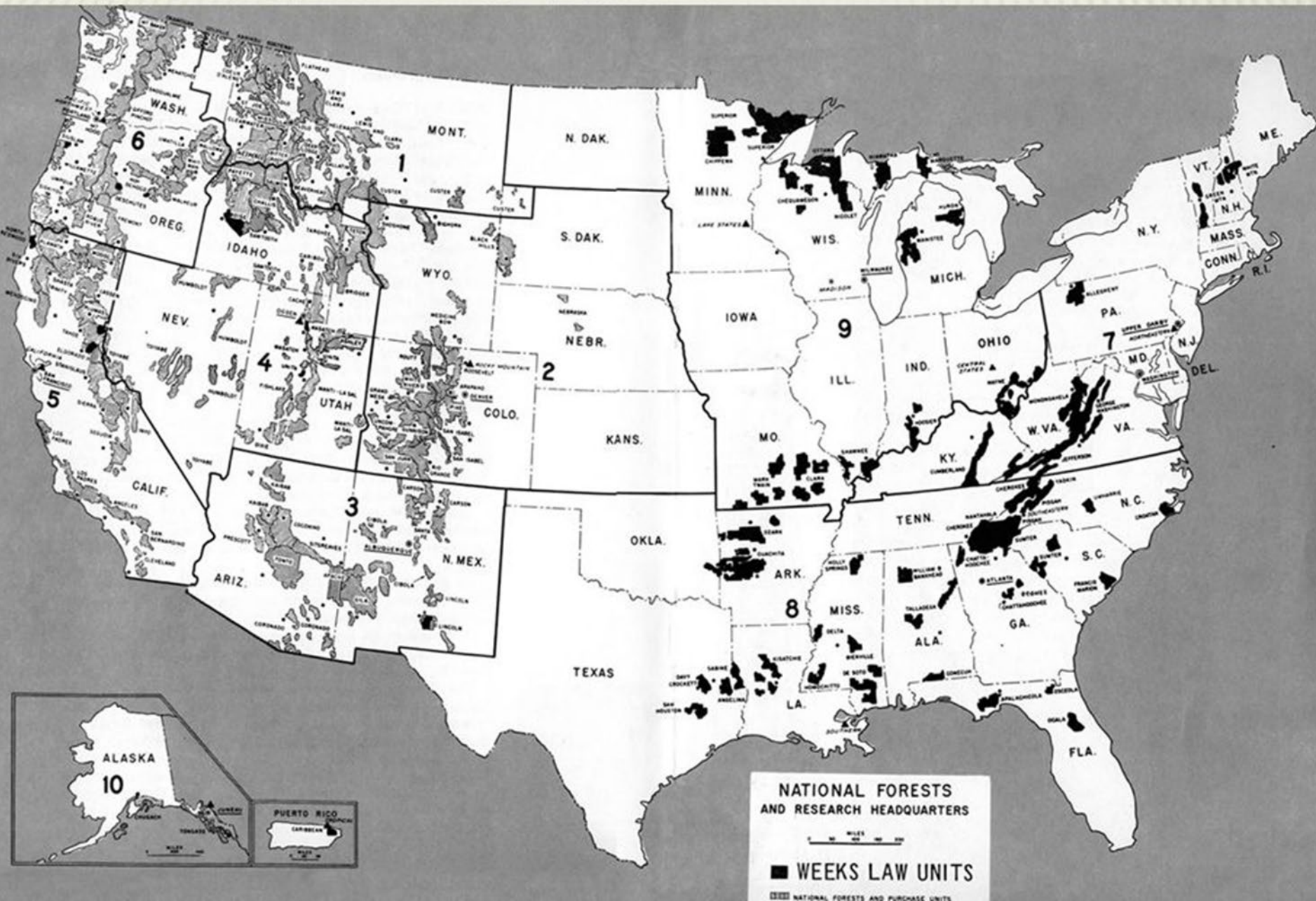
Tribal Nations and the National Forest System

Selected Statutes



Martin Nie & Monte Mills

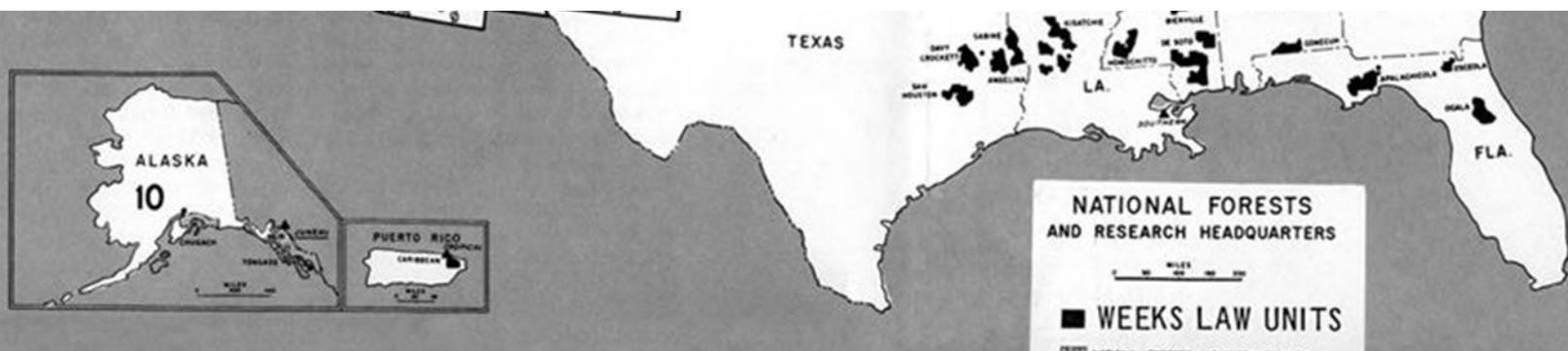
THE WEEKS ACT OF 1911




THE WEEKS ACT OF 1911



SEC. 6. [16 U.S.C. 515] The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.



THE WEEKS ACT OF 1911



SEC. 2. [16 U.S.C. 563] That the sum of two hundred thousand dollars is hereby appropriated and made available until expended, out of any moneys in the National Treasury not otherwise appropriated, to enable the Secretary of Agriculture to cooperate with any State or group of States, when requested to do so, in the protection from fire of the forested watersheds of navigable streams; and the Secretary of Agriculture is hereby authorized, and on such conditions as he deems wise, to stipulate and agree with any State or group of States to cooperate in the organization and maintenance of a system of fire protection on any private or state forest lands within such State or States and situated upon the watershed of a navigable river: *Provided*, That no such stipulation or agreement shall be made with any State which has not provided by law for a system of forest-fire protection: *Provided further*, That in no case shall the amount expended in any State exceed in any fiscal year the amount appropriated by that State for the same purpose during the same fiscal year.



NATIONAL FORESTS
AND RESEARCH HEADQUARTERS

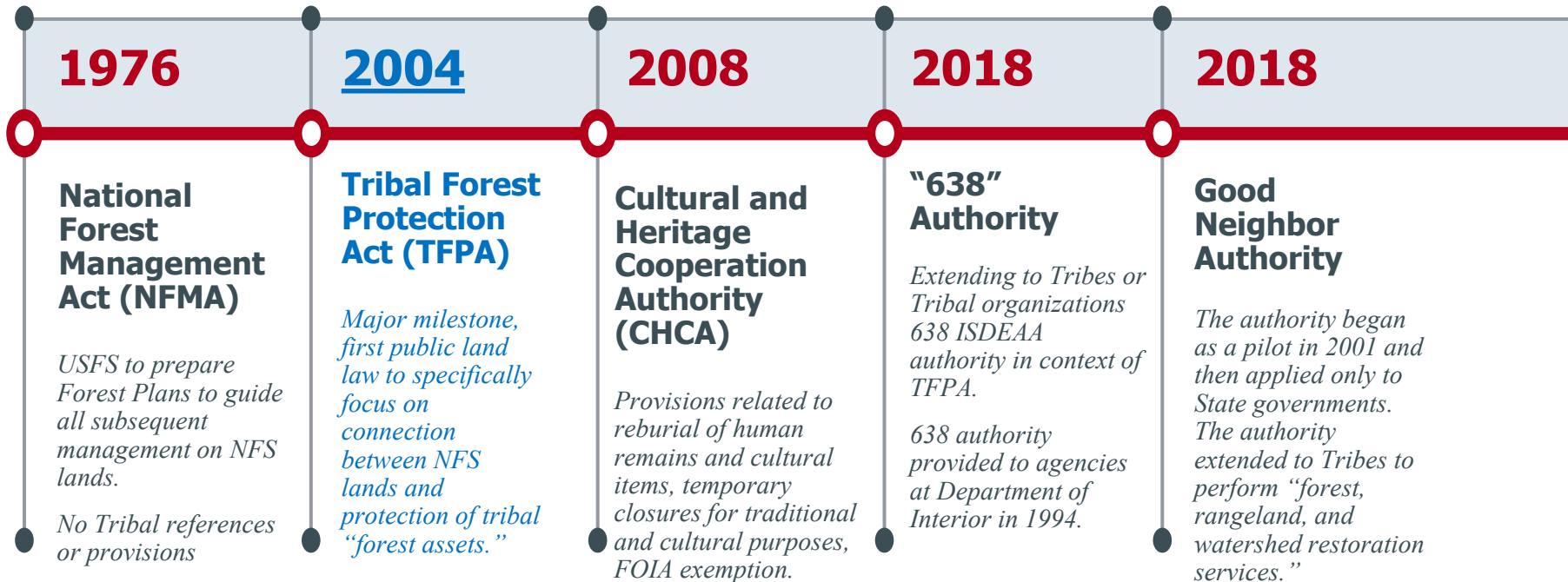
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MILES

■ WEEKS LAW UNITS

▨ NATIONAL FORESTS AND PURCHASE UNITS

Tribal Nations and the National Forest System

Selected Statutes

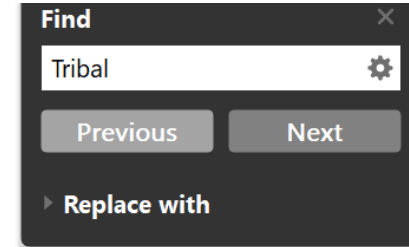
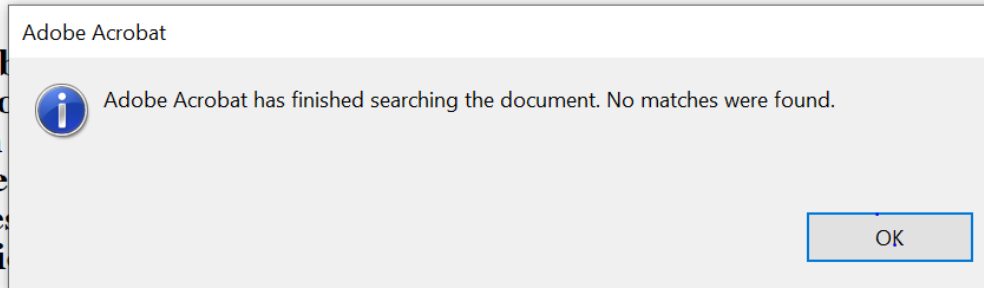


Martin Nie & Monte Mills

National Forest Management Act of 1976

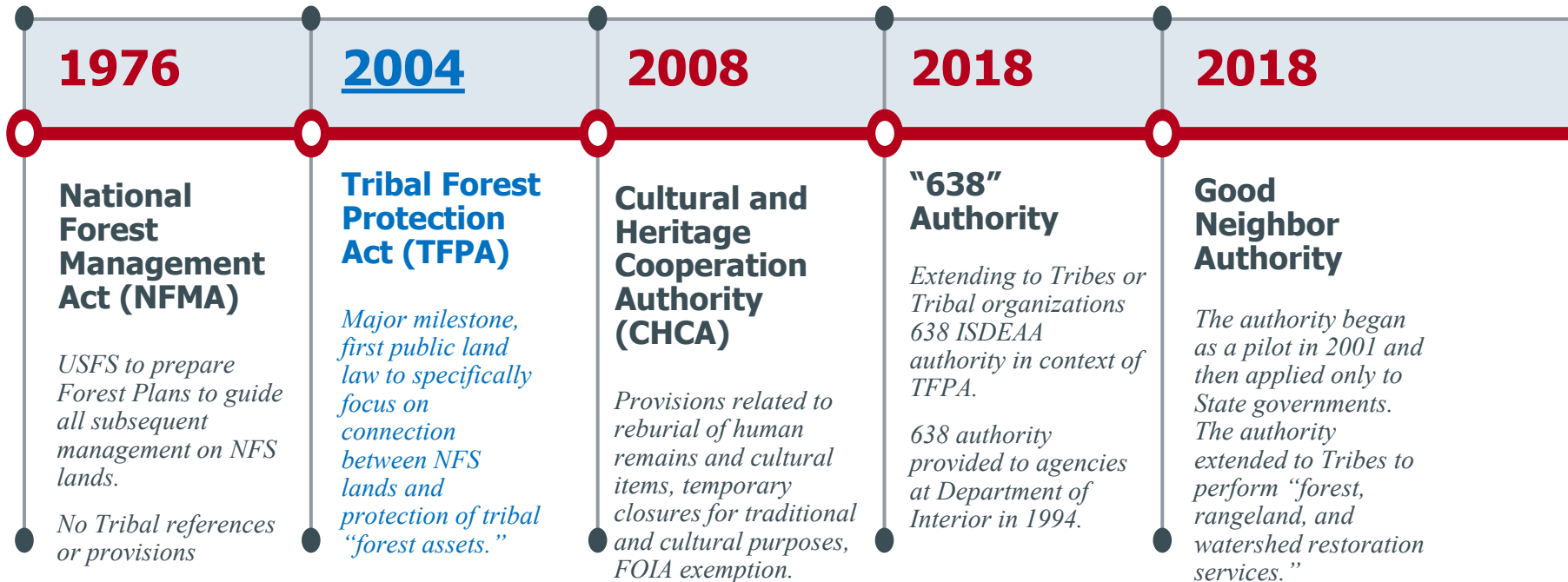
National Forest Management Act Of 1976

- *Sec. 1. Title
- *Sec. 2. Findings
- *Sec. 3. Reports on Fil
Wastes and Wc
- *Sec. 4. Reforestation
- *Sec. 5. Renewable Re
- *Sec. 6. National Fore
- *Sec. 7. National Parti
- *Sec. 8 Transportation System
- *Sec. 9. National Forest System
- *Sec. 10. Renewable Resources
- *Sec. 11, 13. Limitations on Timber Removal
- *Sec. 14. Public Participation and Advisory Boards
- *Sec. 15, 16. Regulations and Severability
- *Sec. 12. Conforming Amendments to the Forest and Rangeland Renewable Resources
Planning Act of 1974

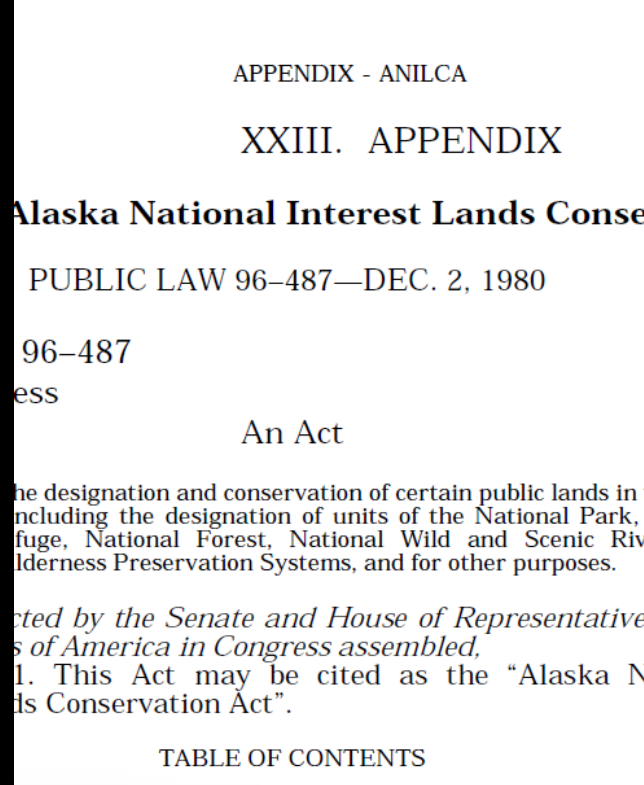
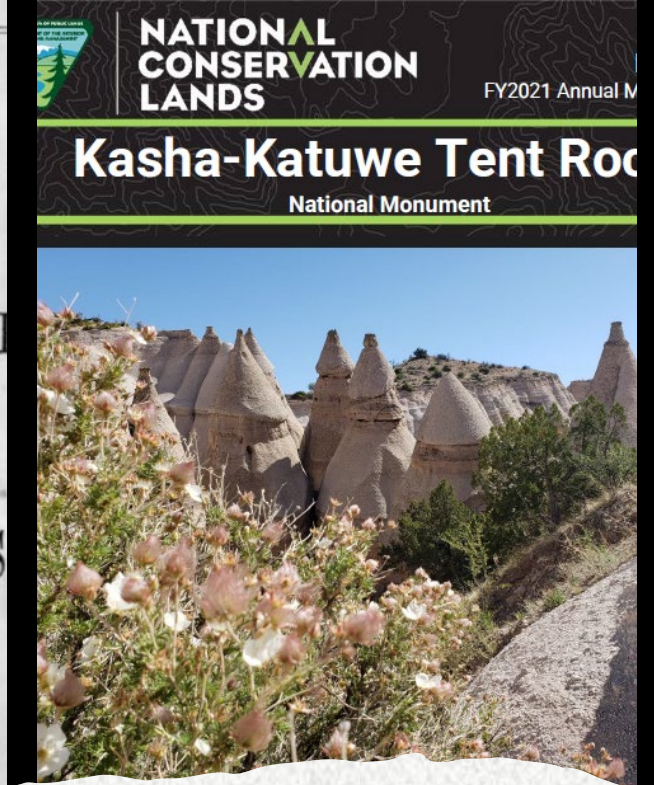
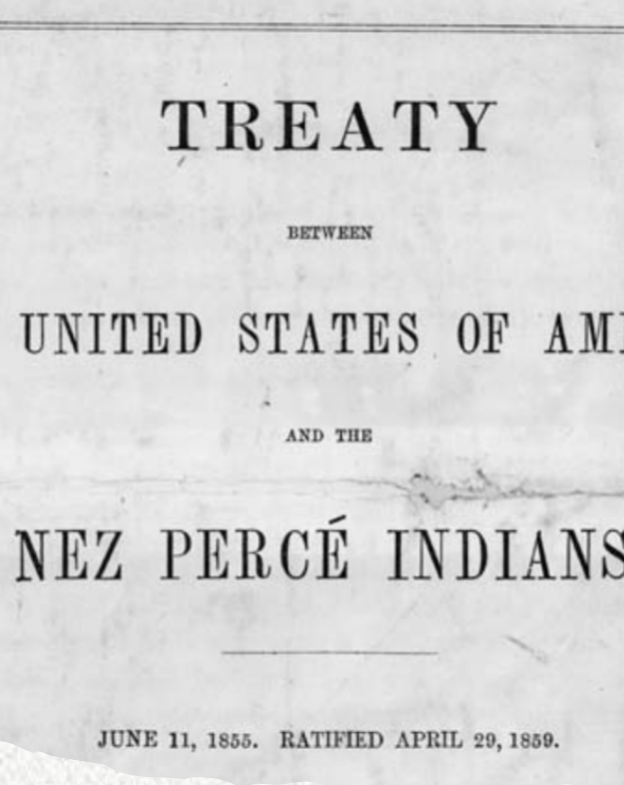


Tribal Nations and the National Forest System

Selected Statutes

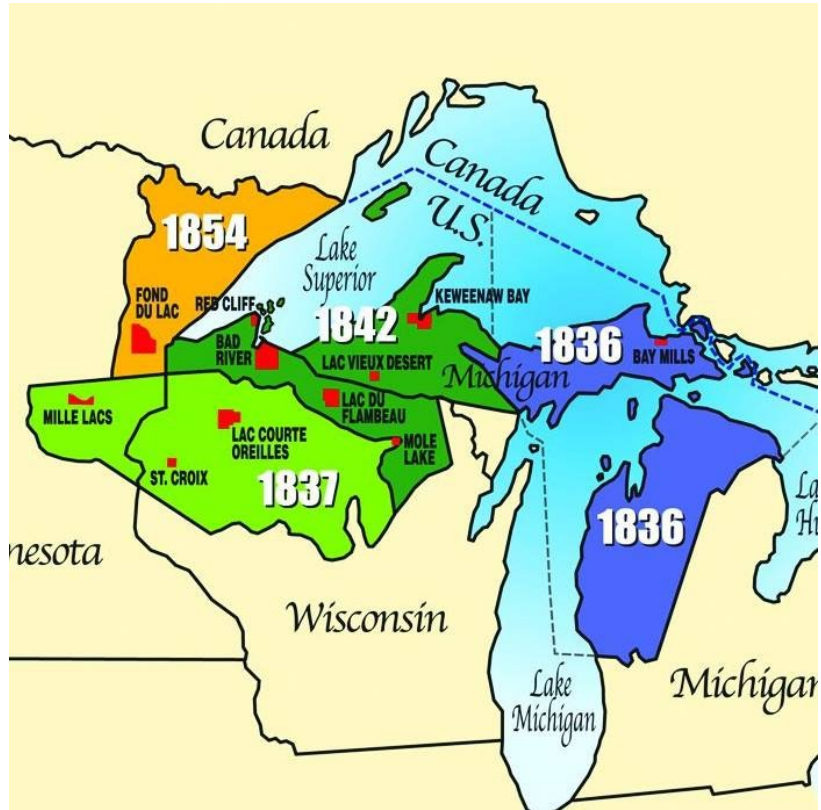


Martin Nie & Monte Mills



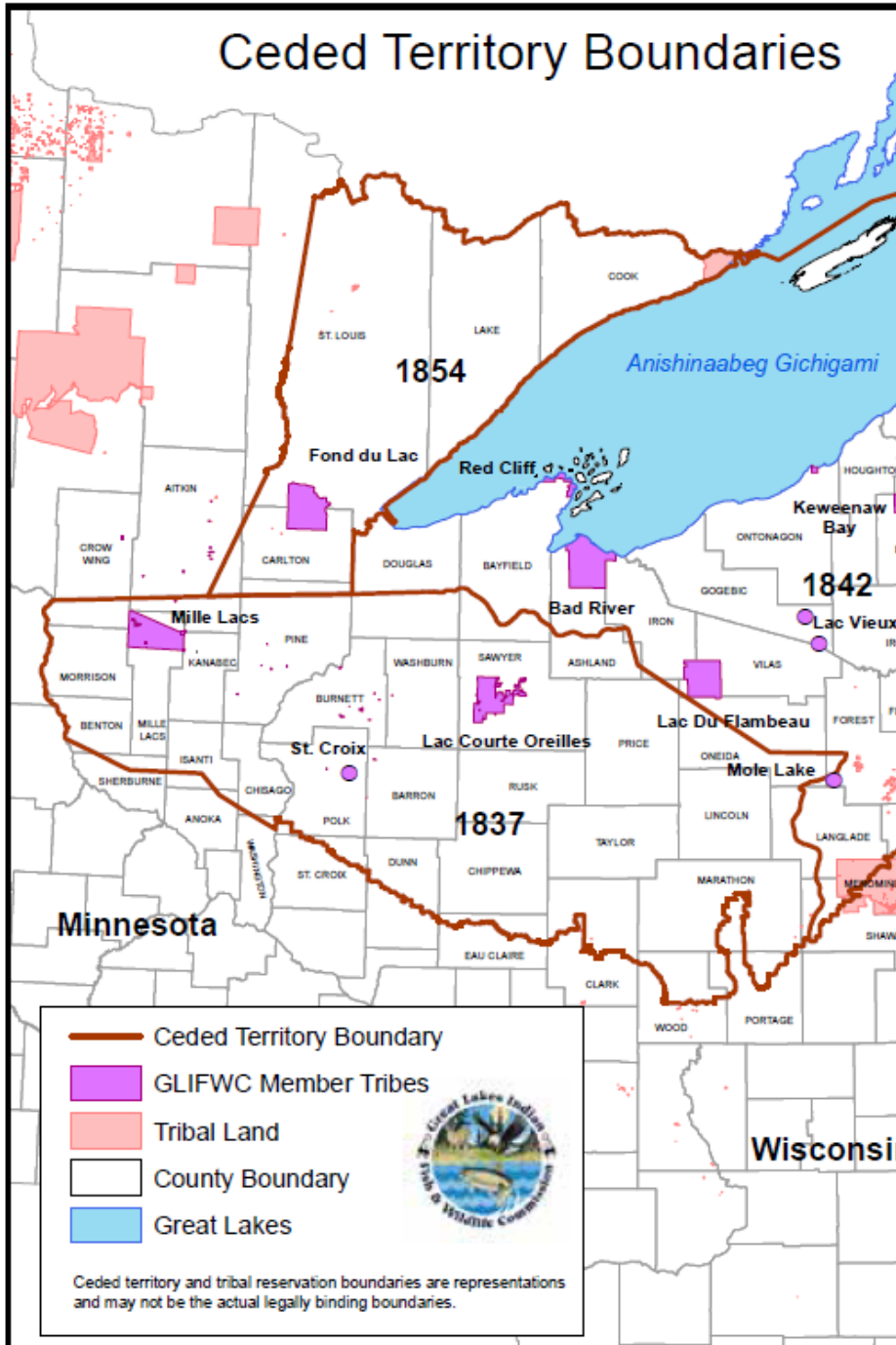
Tribal Co-Management and Stewardship: Legal Anchor Points

Off-reservation treaty rights as anchor point



Northwest Indian Fisheries Commission
Member Tribes

Ceded Territory Boundaries



Ojibwe Treaty Cases: Examples; in comparison to Washington/Oregon Cases

-*Leech Lake Band of Chippewa Indians v. Herbst*, 334 F. Supp. 1001 (D. Minn, 1971)

-*Michigan v. Jondreau* (Mich. 1971)

-*Wisconsin v. Gurnoe*, 53 (Wis. 1972)

-*Lac Courte Oreilles Band v. Voight*, 700 F 2d 341 (7th Cir. 1983) (LCO I)

-*United States v. Michigan*, 471 F. Supp. 192 (W.D. Mich. 1978) (Fox decision, same year USSC affirms Boldt decision)

-*Minnesota v. Mille Lacs Band*, 526 U.S. 172 (U.S. 1999)

Trust Responsibility as Anchor Point



Order No. 3403

Subject: Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters

Section 1. Purpose. This Secretary's Order is issued by the Secretary of Agriculture and the Secretary of the Interior (Secretaries) to ensure that the Department of Agriculture and the Department of the Interior (Departments) and their component Bureaus and Offices are managing Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes including the Native Hawaiian Community; that such management is consistent with the nation-to-nation relationship between the United States and federally recognized Indian Tribes; and, that such management fulfills the United States' unique trust obligation to federally recognized Indian Tribes and their citizens.

S.O. 3403 (2001)

Tribal “Co-Stewardship”

-Inclusive, umbrella term covering a wide scope of cooperative and collaborative relationships and models of shared decision-making.



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The Departments are responsible for the management of millions of acres of Federal lands and waters that were previously owned and managed by Indian Tribes. Those lands and waters contain cultural and natural resources of significance and value to Indian Tribes and their citizens, including sacred religious sites, burial sites, wildlife, and sources of indigenous foods and medicines. In addition, many of those lands and waters lie within areas where Indian Tribes have reserved the right to hunt, fish, gather, and pray pursuant to ratified treaties and agreements with the United States.

In managing Federal lands and waters, the Departments are charged with the highest trust responsibility to protect Tribal interests and further the nation-to-nation relationship with Tribes. The Departments recognize and affirm that the United States’ trust and treaty obligations are an integral part of each Department’s responsibilities in managing Federal lands. Tribal consultation and collaboration must be implemented as components of, or in addition to, Federal land management priorities and direction for recreation, range, timber, energy production, and other uses, and conservation of wilderness, refuges, watersheds, wildlife habitat, and other values. Further, in honoring these obligations, the Departments will benefit by incorporating Tribal expertise and Indigenous knowledge into Federal land and resources management.

Co-Stewardship Agreements

To “make agreements with Indian Tribes to collaborate in the co-stewardship of Federal lands and waters under the Departments’ jurisdiction, including for wildlife and its habitat.” §1(b)

“Promote the use of collaborative agreements....” §5(a)

“Use agreements as a tool to foster cooperation on protection of treaty, subsistence, and religious rights....” §5(d)



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THE WHITE HOUSE TRIBAL NATIONS SUMMIT PROGRESS REPORT

DECEMBER 9, 2024

Department of Interior:
~150 agreements

USFS: 121 agreements,
with ~60 focused on
co-stewardship

PREPARED BY THE DOMESTIC POLICY COUNCIL

Agreements & MOUs: Common Themes

MEMORANDUM OF UNDERSTANDING BETWEEN THE BLACKFEET TRIBE AND THE DEPARTMENT OF AGRICULTURE FOREST SERVICE FOR THE MANAGEMENT AND PROTECTION OF BLACKFEET TREATY-RESERVED LANDS WITHIN THE HELENA-LEWIS AND CLARK NATIONAL FOREST

This Understanding (MOU) is hereby made and entered into by and between the Blackfoot Tribe, a federally-recognized Tribe (hereinafter referred to as "the Tribe"), who have occupied the land within Helena-Lewis and Clark National Forest (hereinafter referred to as "Forest Service").

PREAMBLE

History, the United States greatly diminished the Blackfoot Nation's land through treaties, agreements, and takings by Executive Order and the federal government's acquisition of this land through the Blackfoot Cession, specifically the Ceded Strip, was done under considerable duress while the Blackfoot Nation was facing disease and starvation. Although the Blackfoot Nation ceded the Ceded Strip, the Blackfoot Nation reserved and, therefore, retains significant rights within the Ceded Strip, including, but not limited to, the right to fish, hunt and gather within the Ceded Strip, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). Today, most of this land is now part of Glacier National Park and the National Forest. The land within Helena-Lewis and Clark National Forest is managed by the Forest Service.

NATIONAL FORESTS INVOLVED

This MOU pertains to the Ceded Territory (the "Ceded Territory"). This MOU specifically pertains to the Ceded Territory as defined under the Agreement with the Blackfoot, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). The Ceded Territory is located in northwestern Montana and is bordered on the east by the Blackfoot Indian Reservation, on the west by the Bob Marshall Wilderness area and on the south by the National Forest. The Ceded Territory includes a portion of Glacier National Park and the National Forest. This MOU pertains only to Helena-Lewis and Clark National Forest. A very small amount of private land in the south half of the Blackfoot Ceded Strip that is not included. No towns, communities or settlements exist in the Ceded Strip. The closest communities are on the Blackfoot Indian Reservation and neither depends substantially on activities associated with the Ceded Strip for economic development. See map in Appendix A.



MEMORANDUM OF UNDERSTANDING REGARDING A-FOREST SERVICE RELATIONS, CO-ST ECTION OF TREATY-RESERVED RIGHT SUPERIOR NATIONAL FOREST

This Understanding ("MOU") is entered into between the Forest Service, Superior National Forest, hereinafter referred to as the Forest Service; and the Grand Portage Band of Chippewa ("Grand Portage Band"), the Fond du Lac Band of Chippewa ("Fond du Lac Band"), and the Bois Forte Band of Chippewa ("Bois Forte Band") collectively, the "Tribes"), federally-recognized Tribes, hereinafter referred to as the Tribes; the Forest Service Region Nine ("Regional Forester") and the Forest Supervisor ("Forest Supervisor") (all, collectively, the

Between the
USDA FOREST SERVICE
CHIPPEWA NATIONAL FOREST
And the

LEECH LAKE BAND OF OJIBWE of the MINNESOTA CHIPPEWA TRIBE



MEMORANDUM OF UNDERSTANDING (MOU) was entered into by and between the Forest Service, Chippewa National Forest, hereinafter referred to as the Forest Service; and the Leech Lake Band of Ojibwe, (appearing in the Federal Register of July 23, 2018 at Vol. 53, p. 34865 as the Minnesota Chippewa Tribe, Leech Lake Band), hereinafter referred to as the Band. The Forest Service and the Band are jointly referred to herein as the Parties.

POSE

The purpose of this MOU is to provide a framework for cooperation between the Forest Service and the Band for natural resource management, economic development and employment, training and education, maintaining Ojibwe cultural life-ways, and regulatory protection on National Forest System (NFS) and trust lands within the boundaries of the

Agreements & MOUs: Common Themes

- Focused on threats, problems and challenges to forest management that Native Nations did not create
- Substantive Tribal engagement as *sovereigns*
- Institutionalizing agreements, in response to agency turnover; for continuity; institutional memory...

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE BLACKFEET TRIBE
AND THE
DEPARTMENT OF AGRICULTURE FOREST SERVICE
FOR THE PROTECTION AND PROTECTION OF BLACKFEET TREATY-RESERVED
LANDS WITHIN THE HELENA-LEWIS AND CLARK NATIONAL FOREST

This Memorandum of Understanding (MOU) is hereby made and entered into by and between the Blackfoot Tribe, a federally-recognized Tribe (hereinafter referred to as "the Tribe"), who have occupied the land within Helena-Lewis and Clark National Forest (hereinafter referred to as "Forest Service").

PREAMBLE

Whereas, the United States greatly diminished the Blackfoot Nation's land through treaties, agreements, and takings by Executive Order and the federal government's acquisition of this land through the Blackfoot Cession, specifically the Ceded Strip, was done under considerable duress while the Blackfoot Nation was suffering from disease and starvation. Although the Blackfoot Nation ceded the Ceded Strip, the Blackfoot Nation reserved and, therefore, retains significant rights within the Ceded Strip, including, but not limited to, the right to fish, hunt, and gather on the Ceded Strip, ratified by the Act of June 10, 1896 (29 Stats. 350, 398, 399, 400, 401). Today, most of this land is now part of Glacier National Park and the Helena-Lewis and Clark National Forest. The land within Helena-Lewis and Clark National Forest is managed by the Forest Service.

TERRITORY AND NATIONAL FORESTS INVOLVED.

This MOU pertains to the Ceded Territory (the "Ceded Territory"). This MOU specifically pertains to the Ceded Territory, which was ceded under the Agreement with the Blackfoot, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). The Ceded Territory is located in northwestern Montana and is bordered on the east by the Blackfoot National Forest, on the west by the Bob Marshall Wilderness area and on the south by the Helena-Lewis and Clark National Forest. The Ceded Territory includes a portion of Glacier National Park. This MOU pertains only to Helena-Lewis and Clark National Forest. A very small amount of private land in the south half of the Blackfoot Ceded Strip that is not included. No towns, communities or settlements exist in the Ceded Strip. The closest communities are on the Blackfoot Indian Reservation and neither depends substantially on activities associated with the Ceded Strip for economic development. See map in Appendix A.



MEMORANDUM OF UNDERSTANDING
REGARDING
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Between the
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Agreements & MOUs: Common Themes

-No one template/cookie cutter approach

-Signs of building on earlier agreements

-Responses to dysfunctional patterns of “drive by” Tribal consultation

-Flipping scripts; agreements giving shape and substance to more meaningful and pre-decisional Tribal consultation

MEMORANDUM OF UNDERSTANDING BETWEEN THE BLACKFEET TRIBE AND THE DEPARTMENT OF AGRICULTURE FOREST SERVICE FOR THE SHIP AND PROTECTION OF BLACKFEET TREATY-RESERVED LANDS WITHIN THE HELENA-LEWIS AND CLARK NATIONAL FOREST

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Between the USDA FOREST SERVICE CHIPPEWA NATIONAL FOREST And the LEECH LAKE BAND OF OJIBWE of the MINNESOTA CHIPPEWA TRIBE



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Whereas, the United States greatly diminished the Blackfoot Nation's land through treaties, agreements, and takings by Executive Order and the federal government's acquisition of this land through the Blackfoot Cession, specifically the Ceded Strip, was done under considerable duress while the Blackfoot Nation was facing disease and starvation. Although the Blackfoot Nation ceded the Ceded Strip, the Blackfoot Nation reserved and, therefore, retains significant rights within the Ceded Strip, including, but not limited to, the right to fish, hunt, and gather. Today, most of this land is now part of Glacier National Park and the Helena-Lewis and Clark National Forest. The land within Helena-Lewis and Clark National Forest is managed by the Forest Service.

TERRITORY AND NATIONAL FORESTS INVOLVED.

This MOU specifically pertains to the Ceded Territory (the "Ceded Territory"). This MOU specifically pertains to the Ceded Territory, which was ceded under the Agreement with the Blackfoot, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). The Ceded Territory is located in northwestern Montana and is bordered on the east by the Blackfoot National Forest, on the west by the Bob Marshall Wilderness area and on the south by the Helena-Lewis and Clark National Forest. The Ceded Territory includes a portion of Glacier National Park. This MOU pertains only to Helena-Lewis and Clark National Forest. A very small amount of private land in the south half of the Blackfoot Ceded Strip is not included. No towns, communities or settlements exist in the Ceded Strip. The closest communities are on the Blackfoot Indian Reservation and neither depends substantially on activities associated with the Ceded Strip for economic development. See map in Appendix A.



MEMORANDUM OF UNDERSTANDING
REGARDING
A-FOREST SERVICE RELATIONS, CO-ST
ECTION OF TREATY-RESERVED RIGHT
SUPERIOR NATIONAL FOREST

This Understanding ("MOU") is entered into between the Grand Portage Band of Chippewa ("Grand Portage Band"), the Fond du Lac Band of Chippewa ("Fond du Lac Band"), and the Bois Forte Band of Chippewa ("Bois Forte Band") collectively, the "Tribes"), federally-recognized Tribes, and the Department of Agriculture Forest Service ("Forest Service") Region Nine ("Regional Forester") and the Forest Supervisor ("Forest Supervisor") (all, collectively, the

Agreements & MOUs: Common Themes

-Shared Interests and Tribal Connections ("Whereas...")

-Identifying interests, actions and priorities that are shared between Tribes and USFS (and sometimes other partners)

Finding ways to harmonize the USFS's statutory duties with its Tribal trust and treaty obligations. To find more effective implementation of all the above.....

Between the
USDA FOREST SERVICE
CHIPPEWA NATIONAL FOREST
And the
LEECH LAKE BAND OF OJIBWE of the MINNESOTA CHIPPEWA TRIBE



MEMORANDUM OF UNDERSTANDING (MOU) was entered into by and between the Forest Service, Chippewa National Forest, hereinafter referred to as the Forest Service; and the Leech Lake Band of Ojibwe, (appearing in the Federal Register of July 23, 2018 at Vol. 53, p. 34865 as the Minnesota Chippewa Tribe, Leech Lake Band), hereinafter referred to as the Band. The Forest Service and the Band are jointly referred to herein as the Parties.

PURPOSE

The purpose of this MOU is to provide a framework for cooperation between the Forest Service and the Band for natural resource management, economic development and cultural preservation, training and education, maintaining Ojibwe cultural life-ways, and regulatory compliance within the National Forest System (NFS) and trust lands within the boundaries of the

Agreements & MOUs: Administration

- MOUs establishing protocols, frameworks, practices for subsequent management and decision making
- Funds not obligated in MOUs
- Different agreement types and mechanisms used to fund and administer the MOUs.

MEMORANDUM OF UNDERSTANDING BETWEEN THE BLACKFEET TRIBE AND THE DEPARTMENT OF AGRICULTURE FOREST SERVICE FOR THE SHIP AND PROTECTION OF BLACKFEET TREATY-RESERVED LANDS WITHIN THE HELENA-LEWIS AND CLARK NATIONAL FOREST

This Understanding (MOU) is hereby made and entered into by and between the Blackfoot Tribe, a federally-recognized Tribe (hereinafter referred to as "the Tribe"), who have occupied the land within Helena-Lewis and Clark National Forest (hereinafter referred to as "Forest Service").

PREAMBLE

History, the United States greatly diminished the Blackfoot Nation's land through treaties, agreements, and takings by Executive Order and the federal government's acquisition of this land through the Blackfoot Treaty, specifically the Ceded Strip, was done under considerable duress while the Blackfoot Nation was facing disease and starvation. Although the Blackfoot Nation ceded the Ceded Strip, the Blackfoot Nation reserved and, therefore, retains significant rights in the Ceded Strip, including, but not limited to, the right to fish, hunt and gather within the Ceded Strip, ratified by the Act of June 10, 1896 (29 Stats. 350, 398). Today, most of this land is now part of Glacier National Park and the National Forest. The land within Helena-Lewis and Clark National Forest is managed by the Forest Service.

TERRITORY AND NATIONAL FORESTS INVOLVED.

The Ceded Territory (the "Ceded Territory"). This MOU specifically pertains to the Ceded Territory, which was ceded under the Agreement with the Blackfoot, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). The Ceded Territory is located in northwestern Montana and is bordered on the east by the Blackfoot National Forest, on the west by the Bob Marshall Wilderness area and on the south by the National Forest. The Ceded Territory includes a portion of Glacier National Park and this MOU pertains only to Helena-Lewis and Clark National Forest. A very small amount of private land in the south half of the Blackfoot National Forest is not included. No towns, communities or settlements exist in the Ceded Strip. The closest communities are on the Blackfoot Indian Reservation and neither depends substantially on activities associated with the Ceded Strip for economic development. See map in Appendix A.



MEMORANDUM OF UNDERSTANDING REGARDING A-FOREST SERVICE RELATIONS, CO-ST ECTION OF TREATY-RESERVED RIGHT SUPERIOR NATIONAL FOREST

This Understanding ("MOU") is entered into between the Grand Portage Band of Chippewa ("Grand Portage Band"), the Fond du Lac Band of Chippewa ("Fond du Lac Band"), and the Bois Forte Band of Chippewa ("Bois Forte Band") collectively, the "Tribes"), federally-recognized Tribes, and the Department of Agriculture Forest Service ("Forest Service") Region Nine ("Regional Forester") and the Forest Supervisor ("Forest Supervisor") (all, collectively, the

Between the
USDA FOREST SERVICE
CHIPPEWA NATIONAL FOREST
And the

LEECH LAKE BAND OF OJIBWE of the MINNESOTA CHIPPEWA TRIBE



MEMORANDUM OF UNDERSTANDING (MOU) was entered into by and between the Forest Service, Chippewa National Forest, hereinafter referred to as the Forest Service; and the Leech Lake Band of Ojibwe, (appearing in the Federal Register of July 23, 2018 at Vol. 53, p. 34865 as the Minnesota Chippewa Tribe, Leech Lake Band), hereinafter referred to as the Band. The Forest Service and the Band are jointly referred to herein as the Parties.

PURPOSE

The purpose of this MOU is to provide a framework for cooperation between the Forest Service and the Band for natural resource management, economic development and employment, training and education, maintaining Ojibwe cultural life-ways, and regulatory compliance with the National Forest System (NFS) and trust lands within the boundaries of the

Agreements & MOUs: Limitations

- Subject to USFS limitations to “subdelegate” authority
- Not self-funding
- Non-binding clauses, e.g., *“except as may be provided by federal law, this MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity.”*

MEMORANDUM OF UNDERSTANDING BETWEEN THE BLACKFEET TRIBE AND THE DEPARTMENT OF AGRICULTURE FOREST SERVICE REGARDING COOPERATION AND PROTECTION OF BLACKFEET TREATY-RESERVED RIGHTS WITHIN THE HELENA-LEWIS AND CLARK NATIONAL FOREST

This Understanding (MOU) is hereby made and entered into by and between the Blackfoot Tribe, a federally-recognized Tribe (hereinafter referred to as “the Tribe”), who have occupied the land within Helena-Lewis and Clark National Forest (hereinafter referred to as “Forest Service”).

PREAMBLE

History, the United States greatly diminished the Blackfoot Nation’s land through treaties, agreements, and takings by Executive Order and the federal government’s acquisition of this land through the Blackfoot Cession, specifically the Ceded Strip, was done under considerable duress while the Blackfoot Nation was facing disease and starvation. Although the Blackfoot Nation ceded the Ceded Strip, the Blackfoot Nation reserved and, therefore, retains significant rights within the Ceded Strip, including, but not limited to, the right to fish, hunt and trap within the Ceded Strip, ratified by the Act of June 10, 1896 (29 Stats. 350, chapter 398, Article I). Today, most of this land is now part of Glacier National Park and the National Forest. The land within Helena-Lewis and Clark National Forest is managed by the Forest Service.

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MEMORANDUM OF UNDERSTANDING REGARDING COOPERATION AND PROTECTION OF TREATY-RESERVED RIGHTS WITHIN THE SUPERIOR NATIONAL FOREST

This Understanding (“MOU”) is entered into between the Superior National Forest (hereinafter referred to as “Forest Service”), the Grand Portage Band of Chipewya (“Grand Portage Band”), the Fond du Lac Band of Chippewa (“Fond du Lac Band”), and the Bois Forte Band of Chippewa (“Bois Forte Band”) collectively, the “Tribes”), federally-recognized Tribes, and the Department of Agriculture Forest Service (“Forest Service”) Region Nine (“Regional Forester”) and the Forest Supervisor (“Forest Supervisor”) (all, collectively, the “Parties”).

Between the
USDA FOREST SERVICE
CHIPPEWA NATIONAL FOREST
And the

LEECH LAKE BAND OF OJIBWE of the MINNESOTA CHIPPEWA TRIBE



This MEMORANDUM OF UNDERSTANDING (MOU) was entered into by and between the Forest Service, Chippewa National Forest, hereinafter referred to as the Forest Service; and the Leech Lake Band of Ojibwe, (appearing in the Federal Register of July 23, 2018 at Vol. 53, page 34865 as the Minnesota Chippewa Tribe, Leech Lake Band), hereinafter referred to as the Band. The Forest Service and the Band are jointly referred to herein as the Parties.

PURPOSE

The purpose of this MOU is to provide a framework for cooperation between the Forest Service and the Band for natural resource management, economic development and employment, training and education, maintaining Ojibwe cultural life-ways, and regulatory compliance with the National Forest System (NFS) and trust lands within the boundaries of the



Indigenous Stewardship of National Forests: Case Study Report

Professors Monte Mills &
Martin Nie

First Nations Development
Institute Webinar, Oct. 29,
2025

Thank you!

What Next? Possible Next Steps...

-To force the question: What does it mean to *share* in the management of National Forests?

-Deference to Tribal sovereign authority; Tribal self-regulation

-Opportunities in forest planning; Tribal planning

-New statutory authority

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into agreements with Indian Tribes for the performance of certain forest management activities on Federal lands, including the performance of forest land management activities, biochar demonstration projects, and sawmill infrastructure demonstration projects, and for other purposes.

119TH CONGRESS
1ST SESSION

H. R. _____

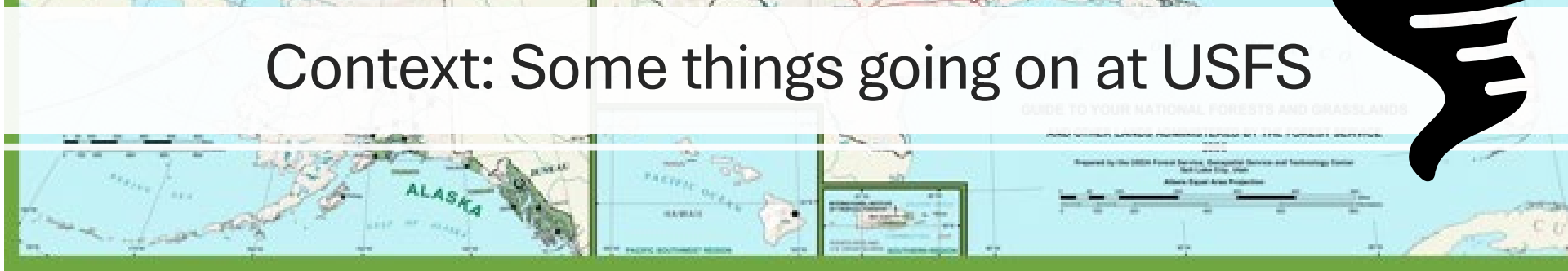
To direct Federal land management agencies of the Department of the Interior to establish Tribal Co-Management Plans and to authorize the Secretary of Agriculture to enter into agreements with Indian Tribes and Tribal organizations for the performance of certain activities of the Forest Service, and for other purposes.

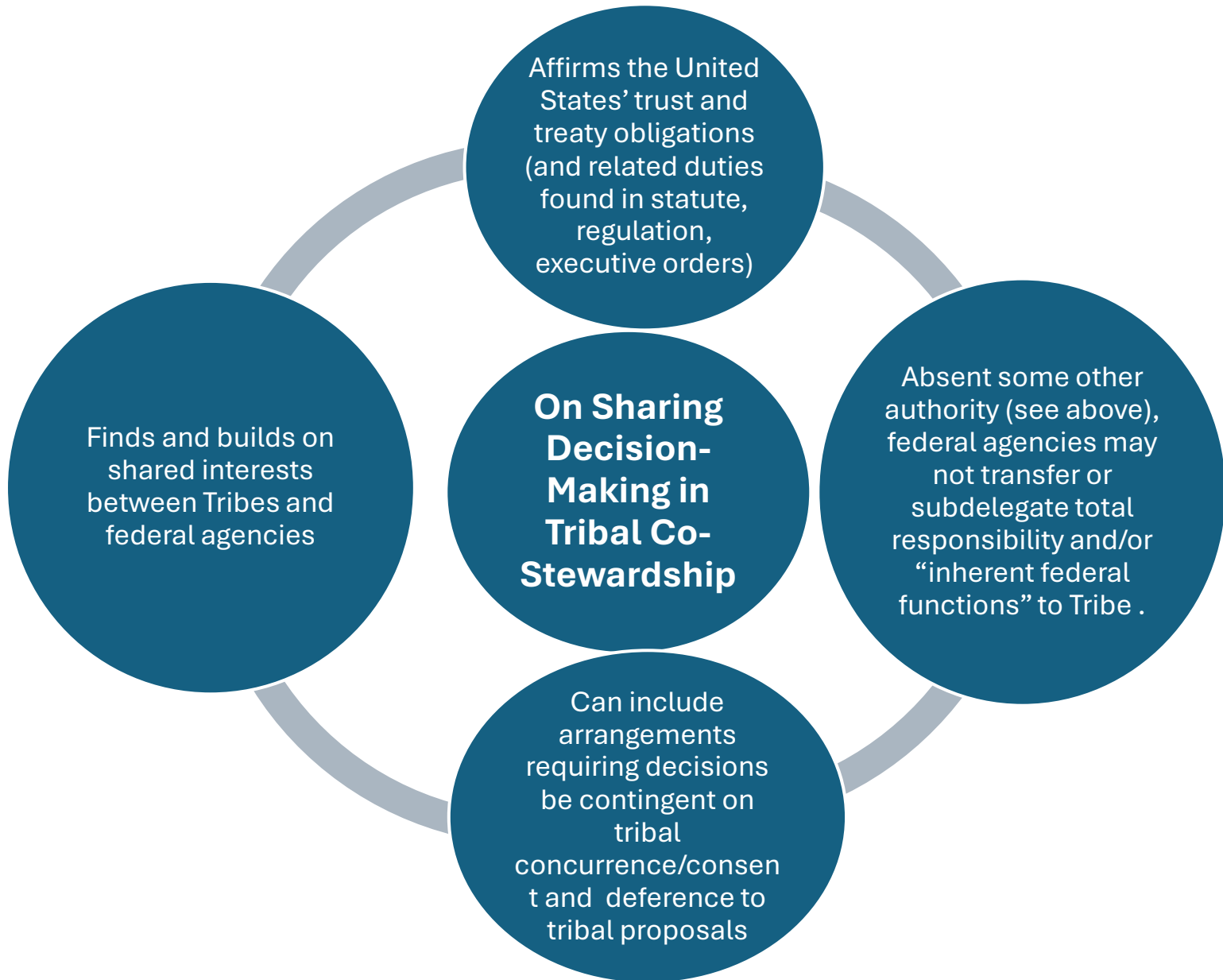
Land Management Plan
Nez Perce-Clearwater National Forests





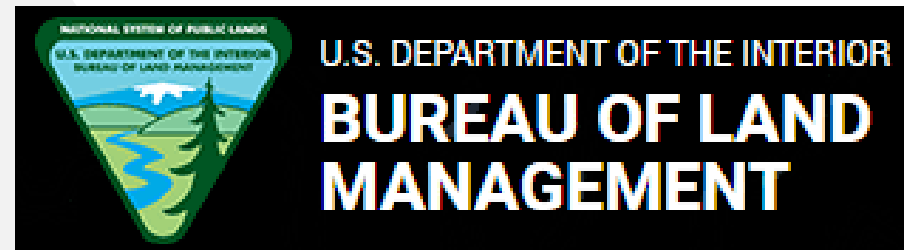
Context: Some things going on at USFS





“The BLM considers co-stewardship to refer to a broad range of working relationships with Indian and Alaska Native Tribes (as defined in 25 U.S.C. 5130(2) to include all Tribes in Alaska), as well as Tribal consortia and Tribally-led entities exercising the delegated authority of federally recognized Tribes.”

“**Co-stewardship can include co-management**, collaborative and cooperative management, and Tribally-led stewardship, and can be implemented through cooperative agreements, memoranda of understanding, self-governance agreements (including annual funding agreements), and other mechanisms...”



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
<https://www.blm.gov>



September 13, 2022

In Reply Refer To:
1118, 8160 (HQ-100) P

EMS TRANSMISSION 09/13/2022
Permanent Instruction Memorandum No. 2022-011

To: BLM State Directors

From: Director, Bureau of Land Management
Principal Deputy Director, Bureau of Land Management

Subject: Co-Stewardship with Federally Recognized Indian and Alaska Native Tribes
Pursuant to Secretary's Order 3403

Tribal Co- Management/ Stewardship

Is:

Grounded in deep historical and legal foundation
(different from States and other non-federal actors)

Sharing authority and responsibility among federal and tribal sovereigns.

Based on a set of ***core principles*** that can be shaped into creative and accountable ways of governing that address different issues and work in different places.

An approach in line with the ***cooperative federalism*** provisions already provided in federal public land laws and extended to State governments.

Compatible with the statutory missions and mandates provided to federal public land agencies by Congress.

A way to substantively integrate the federal government's ***trust obligation and treaty responsibilities*** into the practice of federal public lands and resources management.



“The common word [in definitions of co-management] is **‘shared,’** as in shared authority, shared responsibilities, shared knowledge, shared stake in the outcome.”

“Another lesson learned is that people should not get stuck on semantics. **Don’t let the word get in the way of action.** Many systems have been put into place that have led to success. This is the important message. Disagreement over the use of the word co-management should not prevent us from recognizing that the natural resources of the ceded territories are better off now with the inclusion of tribal perspectives and desires than they were prior to such involvement.”

Tom Busiahn (USFWS) & Jonathan Gilbert (GLIFWC), *The Role of Ojibwe Tribes in the Co-Management of Natural Resource in the Upper Great Lakes Region: A Success Story* (GLIFWC, 2009)

Secretarial Order 3403: Tribal “Co-Stewardship”

USDA Office of General Counsel
Analysis:

-USFS must perform “**inherent government functions**,” those “so intimately related to the public interest as to mandate performance only by Federal employees.”

-**Non-Delegation Doctrine:** may function as a limit on what authorities can be delegated by USFS to Tribes.

“Notwithstanding such limitations, significant latitude remains in the types of co-stewardship agreements or other arrangements that may appropriately support USDA operations without an inappropriate transfer of federal authority.”



United States
Department of
Agriculture

Office of the
General
Counsel

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1854 TREATY AUTHORITY

Tribal Conservation & Preconditions for Tribal Regulation of Treaty Resources and Co- Management



CEDED TERRITORY CONSERVATION CODE

Approved April 24, 2018

Treaty Hunting Regulation Summary 1837 and 1842 Ceded Territories of Wisconsin and Minnesota

