



Northwest Forest Plan  
Interagency Regional  
Monitoring Program

# Strengthening the Federal-Tribal Relationship: A Report on Monitoring Consultation under the NWFP

Kirsten Vinyeta and Kathy Lynn, University of Oregon

Tribal Monitoring Advisory Group: Waldo Walker, Stan McDonald,  
Robert Goodwin, Don Motanic, George Smith



Peter Carlson



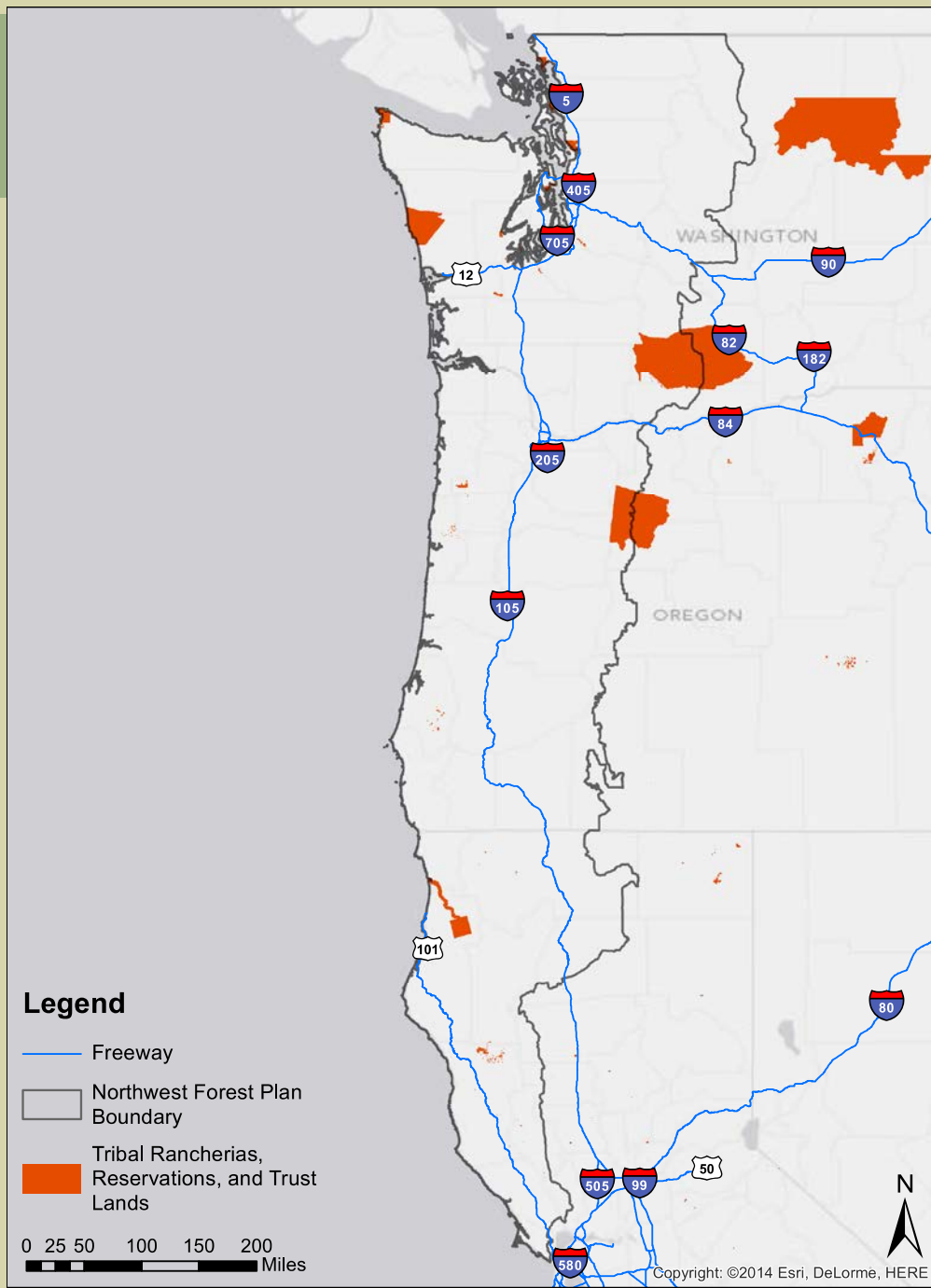


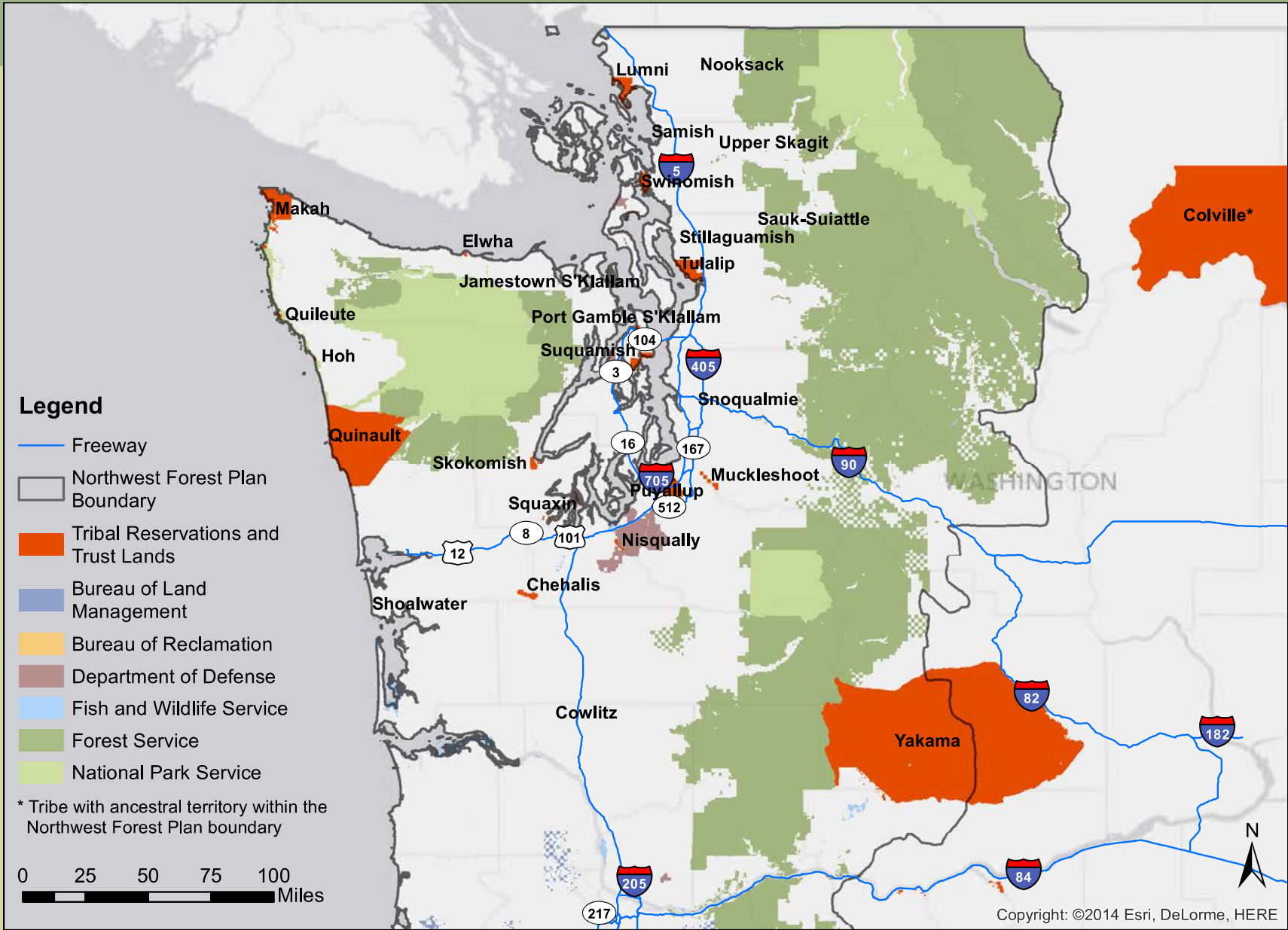
# Federal-Tribal Monitoring Goals

- 75 federally recognized tribes with tribal lands and/or territories within the NWFP boundary.
  - 27 in Washington
  - 7 in Oregon
  - 41 in California
- NWFP Standards and Guidelines call for effectiveness monitoring of “American Indians and their Culture”

# NWFP Federal-Tribal Monitoring

- 10 year Report (1994-2003)
  - 15 tribes represented
- 15 year report (1994-2008)
  - 37 tribes participated in interviews
- 20 year report (1994 – 2014)
  - 27 interviews
  - Case Studies
    - **Karuk Tribe.** The Western Klamath Restoration Partnership: a promising collaboration model.
    - **Klamath Tribes.** A memorandum of agreement with the Fremont-Winema National Forest facilitates federal-tribal relations.
    - **Quinault Indian Nation.** Continuing challenges with consultation and the Northwest Forest Plan's effects on the timber economy.
    - **Mechanisms for Strengthening Accountability in Consultation.** Memoranda of understanding and agreement, tribal consultation ordinances, and consultation policy at the national level as tools to enhance federal-tribal relations.

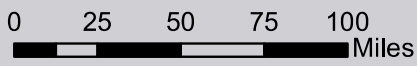




**Legend**

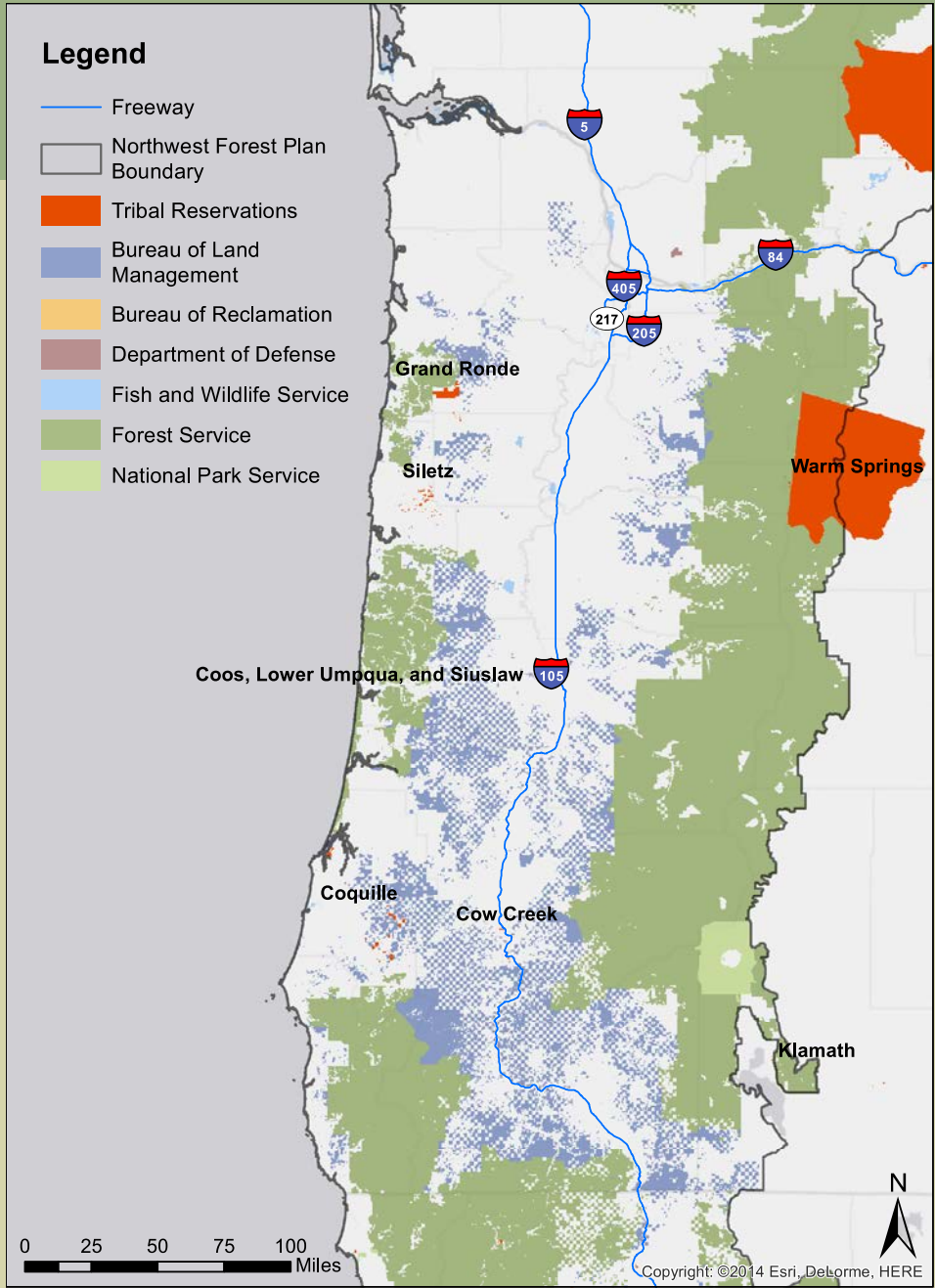
- Freeway
- Northwest Forest Plan Boundary
- Tribal Reservations and Trust Lands
- Bureau of Land Management
- Bureau of Reclamation
- Department of Defense
- Fish and Wildlife Service
- Forest Service
- National Park Service

\* Tribe with ancestral territory within the Northwest Forest Plan boundary



### Legend

- Freeway
- Northwest Forest Plan Boundary
- Tribal Reservations
- Bureau of Land Management
- Bureau of Reclamation
- Department of Defense
- Fish and Wildlife Service
- Forest Service
- National Park Service

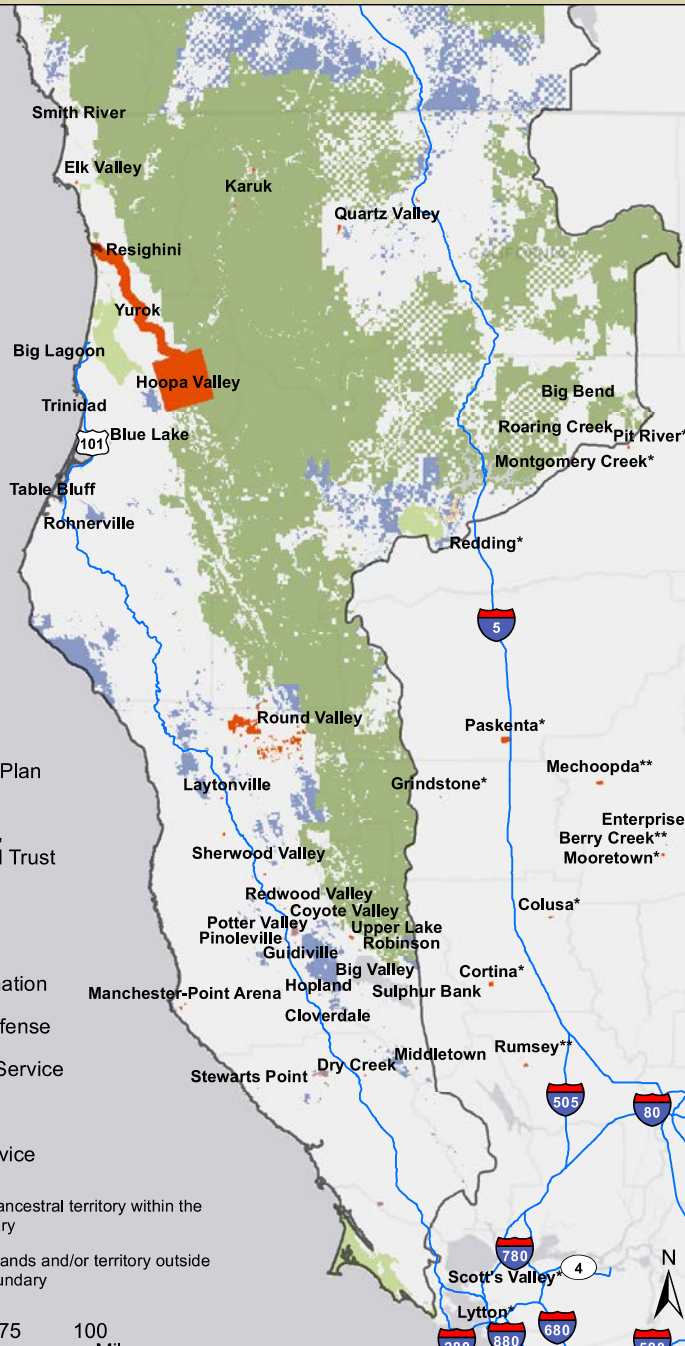


### Legend

-  Freeway
-  Northwest Forest Plan Boundary
-  Tribal Rancherias, Reservations, and Trust Lands
-  Bureau of Land Management
-  Bureau of Reclamation
-  Department of Defense
-  Fish and Wildlife Service
-  Forest Service
-  National Park Service

\* Band, rancheria, or tribe with ancestral territory within the Northwest Forest Plan boundary

\*\* Band, rancheria, or tribe with lands and/or territory outside the Northwest Forest Plan boundary



# Tribal Interviews

- Consultation
- Tribal Rights and Access
- Compatibility of Federal and Tribal Forest Management
- Strengthening Federal Tribal Relations



# Key Findings: Progress since the 15-year Report

## Tribal Input

- 78% of respondents indicated that tribal input is being incorporated into federal planning documents (as compared to 59% in the 15-year report)

## Consultation Protocols

- 63% of respondents indicated consultation protocols have been developed and 53% stated these protocols are adequate for ensuring G2G consultation (as compared to only 32% in the 15-year report).
- Memorandums of Understanding and Agreements are increasingly being utilized to strengthen consultation and foster collaboration, cooperation and coordination.

# Key Findings: Continued Challenges

- Understanding of Treaty Rights, Other Rights, and Federal Trust Responsibilities

*“The Tribe is not a citizen, it is not a stakeholder, the Tribe is a government. The Forest Service must understand that, and what consultation entails.”*
- Frequency vs. Value of Consultation

*“On many fronts, the question remains whether consultation was meaningful. The Tribe received letters asking for input but seldom does the Tribe receive notification on how that input has affected agency decisions.”*
- Access to cultural resources

*“The Forest Plan has reduced logging, and as a result there are a lot of forest roads that have been closed, which has reduced tribal access to forests.”*
- Tribal economy
  - For some tribes, reduced logging in the NWFP region has led to a decline in tribal timber operations and revenue.

# Case Studies

- Karuk Tribe
- Klamath Tribes
- Quinault Indian Nation
- Mechanisms for Strengthening Accountability in Consultation

# Case Study 1: Karuk Tribe

## Western Klamath Restoration Partnership

- Strategic Synergy
  - National Cohesive Strategy
- Funding
  - Fire Learning Network and Fire Adapted Communities
- Facilitation
- Open Standards Process
- GIS Support

## Key Takeaways

- Collaboration is a strong mechanism and can bring significant and mutual benefits
- **Tribal land management can alleviate financial and administrative burdens on federal agencies.**
- Professional mediation can make the difference between effective and ineffective collaboration.
- Effective, long-term collaborations depend on reliable, long-term funding.

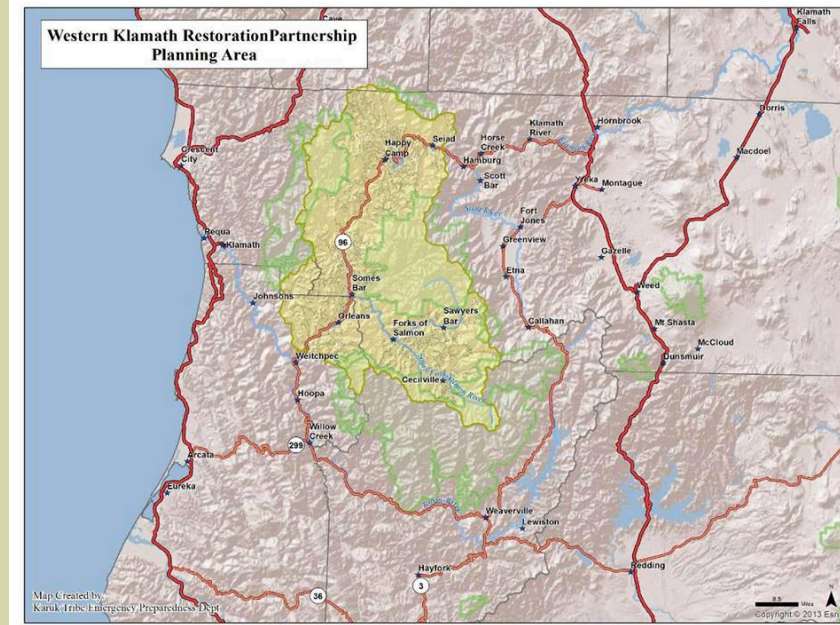


Figure 2: Planning Area of the WKRP



# Case Study 2: Klamath Tribes

## 1999 Memorandum of Agreement

- Guides Government-to-Government interaction
- Guides staff-level interaction

## Strengths and Limitations

- “You can have the best written policies, regulations and rules, but they're only as good as the people who have to implement them and use them”
- “All the federal families, not just the Forest Service, are putting a lot more emphasis in the federal-tribal relationship, in part, as a result of Presidential Executive Orders from the White House that filter down through the agencies. We’ve come a long way. There has been noticeable progress over the years.”

## Key Takeaways

- MOUs can reduce the need for costly litigation in federal-tribal relations, benefitting both tribes and agencies
- Tribal participation can greatly enrich federal programs and activities
- Collaboration can help underfunded and understaffed tribes achieve their objectives



Logging on the Klamath Indian Reservation, circa 1933. Photo by Harold Weaver.

# Case Study 3: Quinault Indian Nation

## NWFP Impacts on the Quinault Indian Nation Timber Economy

- 5460 acres of forestland in the Quinault Special Management Area (QMSA)
- NWFP has reduced logging in the region, which has led to a reduction in logging infrastructure, thereby affecting the ability of the QIN to carry out their timber operations.

## Key Takeaways

- Government-to-government consultation should involve high level federal-tribal interaction
- A lack of consultation protocols can challenge federal-tribal communication and collaboration.
- Tribes can create internal consultation protocols that guide agencies and organizations when consulting and/or collaborating with tribes.
- The Anchor Forest concept may serve as a strategy to protect tribal and other timber economies.
- Tribes need better, more consistent funding for tribal forest management.



Figure 10: Quinault Special Management Area. Photo by Larry Workman.

# Case Study 4: Mechanisms for Strengthening Accountability in Consultation

## MOU/MOA Strengths

- Protocols for working relationships as well as for formal consultation
- Detailed descriptions of what constitutes formal consultation, under what conditions it will occur, and how the process will unfold
- Protocols for communicating consultation outcomes
- Establishing annual or more frequent meetings to discuss the effectiveness of the MOU and federal-tribal relationship more broadly
- Promoting collaborative training and monitoring, and information-sharing opportunities
- Establishing opportunities for co-management

## MOU/MOA Limitations

- Protection of TEK and culturally sensitive information
- Cultural competence training
- Mechanisms for addressing staff turnover (i.e. training and orientation)
- Agency communication about how tribal input has affected agency action
- Dispute resolution mechanisms

# Consultation Recommendations from Tribes

## **Increase effectiveness of government-to-government consultation**

- Learn, recognize, and act on each tribe's unique vision for consultation
- Create more formalized, individualized agreements between tribes and agencies to clarify the relationships between them.
- Map and increase agency awareness of tribal lands and territories in relation to the NWFP boundary
- Increase agency and tribal awareness of NWFP policies and their implications
- Work with tribes to develop an orientation for new agency staff

## **Strengthen the accountability of consultation**

- Coordinate consultation policies and practices across USFS districts.
- Increase opportunities for collaboration in planning and management
- Strengthen pathways within USFS agency for tribal concerns to flow from districts to agency leadership.



# Recommendations: Tribal Rights and Access

- Train agency staff across all levels to ensure strong cultural competency
  - Treaty and other tribal rights
  - Federal trust responsibilities
  - The impact of unratified treaties (in areas where unratified treaties exist)
  - The history of federal-tribal relations
- Review policies that severely impact tribes' rights to interact with traditional lands and resources.
- Adopt procedural frameworks to protect sensitive tribal and traditional knowledge.
- Develop and use effective conflict resolution processes.

# Recommendations: Improving Federal-Tribal Forest Management Compatibility

- Consult and collaborate with tribes to enhance the compatibility of federal-tribal forest management practices.
- Increase opportunities for tribal land management.
- Increase funding and support opportunities for tribal natural resource departments.
- Increase funding and ensure adequate staffing levels for agencies working closely with tribes.

# Management Considerations

- **Training and education** for all levels of agency leadership and staff on tribal consultation and government-to-government relationships.
- **Accountability** - Executive Order 13175: Consultation and Coordination. With Indian Tribal Governments.
- **Opportunities** for collaboration and coordination within the context of Government-to-Government relationships.

# Acknowledgements

- Kirsten Vinyeta (University of Oregon)
- Kathy Lynn (University of Oregon)
- Waldo Walker (USFS Region 6)
- Robert Goodwin (USFS Region 5)
- Stan McDonald (BLM – Oregon State Office)
- Don Motanic (Intertribal Timber Council)
- George Smith (Coquille Tribe)
- Becky Gravenmier (USFS PNW)
- Angel Dawson (BLM)
- Sally Sovey (BLM)
- Peter Wakeland (Coquille Tribe)

All of the tribal leaders and tribal staff members who took the time to talk with us during this monitoring effort.

# Questions?