

The background features a stylized landscape. The top half shows dark green, semi-transparent mountain peaks against a lighter green sky. The bottom half is a bright orange field with a textured, brush-stroke-like border at the top and bottom. The text is centered in the upper half.

THE TRIBAL FOREST PROTECTION ACT:
COLLABORATION BETWEEN
THE FOREST SERVICE AND TRIBES

Region 6 TFPA Workshop

Objectives

- Gain an understanding of the Tribal Forest Protection Act (TFPA), its history and its role in landscape scale restoration for the benefit of Tribes, the Forest Service (FS) and the public.
- Obtain the information necessary to develop successful proposals and implementation plans.

We are focusing on the FS in this workshop.

The History of TFPA: The West Was On Fire



Taos Photo 2003 by Ignacio Peralta,
Photo courtesy of the Forest Service

May 9-11, 2017 TFPA Workshop

TFPA History

In 2002, the Rodeo-Chediski Fire in Arizona burned 276,000 acres of the Fort Apache Reservation in east-central Arizona.

TFPA History



May 9-11, 2017 TFPA Workshop

Photo courtesy of
Forest Service

The Fire Siege of 2003

- In 2003, twenty reservations were on fire, 11 of them during the Fire Siege of southern California.
- Of those 11 reservations, 8 were completely burned by the Siege which scorched over 742,000 acres in all jurisdictions and was pronounced as the worst disaster in state history.
- Lives were lost, and hundreds of tribal members were forced out of their homes for months.

The Fire Siege of 2003



May 9-11, 2017 TFPA Workshop

NASA/Goddard Space Flight Center
Scientific Visualization Studio

TFPA History

- Tribes went to Senator Feinstein and Representative Pombo in California for legislation that would increase protection of tribal lands and resources throughout the United States.

TFPA History

- The Tule River Tribal Council's testimony for the TFPA stated:

“Every year we pray we are not the victims of catastrophic stand replacing fire, such as the devastation in Southern California.”

- The Intertribal Timber Council's testimony:

“applauds and strongly supports the Tribal Forest Protection Act.” It is “...a good opportunity to build partnerships that can produce results on the ground where they count.”

- **The TFPA passed in 2004 with bilateral support.**

Key Terms

- “Tribes” - refer to those tribal governments recognized by the federal government.
- “Trust Responsibility” - the federal government has a legal responsibility to protect the interests and rights of Tribes and their members.
- “Land in trust” - the US holds the legal title and the Tribe or individual Indian person holds the beneficial interest.

TFPA Background

The TFPA authorizes the Secretaries of Agriculture and Interior to give special consideration to tribally-proposed projects on FS or Bureau of Land Management administered lands.

TFPA Basics

- Emphasizes the government-to-government relationship between the federal government and Tribes.
- Sets forth the goal for protection of trust lands.
- Acknowledges Tribes' historic and cultural interests.
- Recognizes tribal relevant knowledge and skills.

See the TFPA handouts for specifics and details.

TFPA Basics

To qualify, the land (either tribal or allotted):

- Must be in trust or restricted status and
- Must be forested or have a grass, brush, or other similar vegetation, or
- Formerly had a forest cover or vegetative cover that is capable of restoration.

TFPA Basics

The Tribe must propose a specific project to take place on FS administered land which:

- Borders or is adjacent to Indian trust land and
- Poses a fire, insect infestation, disease, and/or other threat to the Indian forest land or rangeland or a tribal community; or
- Is in need of land restoration.

TFPA Basics

The FS administered area for the TFPA proposal:

- Should present or involve a risk to a feature or circumstance unique to the proposing Tribe (e.g., a risk to treaty rights; or biological, archaeological, historical, or cultural features), and
- Should not be subject to some other conflicting agreement or contract.

TFPA Basics

- The FS may respond to tribal proposals within 120 days.
- While TFPA provides a lot of discretion to the agency, Executive Orders, agency policy and many protocol agreements encourage timely responses.
- Collaboration prior to the submission of a formal proposal contributes to success.

TFPA Basics

The FS can enter into an agreement or contract in response to the proposal with agency appropriated funds and/or other appropriate sources of funding.

Third parties may be involved in funding and doing the work on the ground.

TFPA Basics

For contracts, the FS can use “best value” and give special consideration to tribally-related factors such as, but not limited to:

- The status of the Indian Tribe;
- The trust status of the Tribe’s land;
- The cultural, traditional, and historical affiliation of the Tribe with the land subject to the proposal.

Tribes and the FS

Share Lands and Issues

- Tribes and FS share nearly 3,000 miles of border and hundreds of thousands of acres of watersheds.
- Decreased active management of federal lands has contributed to insect outbreaks and catastrophic fires that cross boundaries.
- Climate change may bring more extreme events.
- We must work together to meet these challenges.

TFPA Is Flexible

TFPA is an important and flexible tool for Tribes and the FS to reduce current and future threats and to sustain healthy, resilient landscapes as the following examples illustrate.

TFPA Success Stories

- The Parry Pinyon Pine Protection Project between two Tribes, the Ramona and Santa Rosa Bands of Cahuilla Indians, and the San Bernardino National Forest in southern California: treating and protecting 100 + acres of culturally important stands of pinyon through volunteer efforts.

Perry Pinyon Pine Protection Project



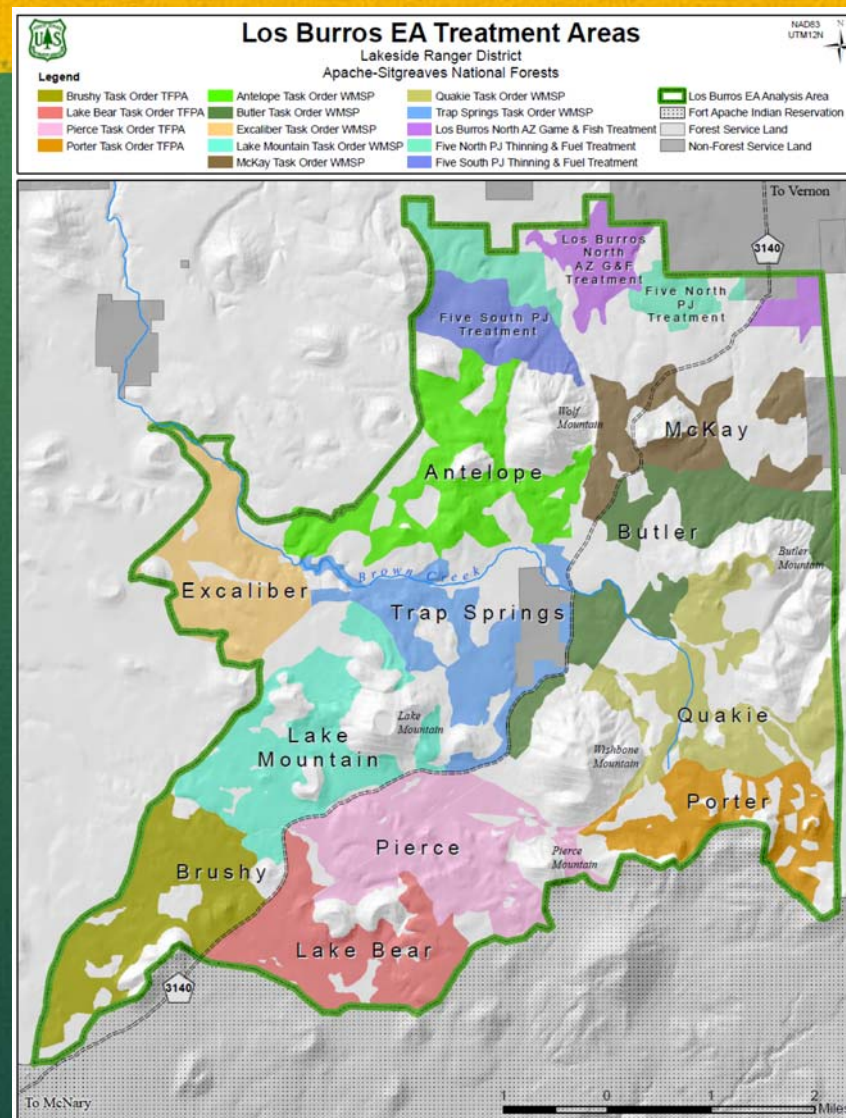
May 9-11, 2017 TFPFA Workshop

**Cahuilla-Apache young people on
the Ramona Reservation
Courtesy of Daniel McCarthy.2013**

TFPA Success Stories

- The Los Burros TFPA Project, between the White Mountain Apache Tribe and the Apache-Sitgreaves National Forest in east central Arizona utilized a Participating Agreement, special funds and existing NEPA documents.
- Tribal members were trained and worked on the project.
- Tribal employees assisted in the preparation of 5,800 acres and thinned/treated fuels on 1,580 acres.

TFPA Success Stories



May 9-11, 2017 TFPA Workshop

TFPA Success Stories

The Lake Quinault Water Treatment Plant between the Quinault Indian Nation and Olympic NF in Washington State: water quality at Lake Quinault, over 3,700 surface acres (through a yearly service contract).



May 9-11, 2017 TFPA Workshop

Lake Quinault
Photo Courtesy of Gary
Morishima

TFPA Success Stories

The McGinnis Cabin Fuels Reduction Project between the Confederated Salish-Kootenai Tribes and Lolo NF in west-central Montana: thinning, fuel reduction, biomass utilization, road construction, maintenance (utilizing a stewardship contract).

TFPA Success Stories

The Mill Creek Fuels Reduction Project between the Hoopa Tribe and Six Rivers NF in northwestern California: over 300 acres of fuels reduction next to a wilderness and bordering the Hoopa Reservation (tiered to a master agreement).

TFPA Success Stories

The 16 Springs Stewardship Project between the Mescalero Tribe and Lincoln NF in New Mexico: fuels reduction and protection from insect and disease, over 6,000 acres (utilizing a stewardship contract and economic stimulus funding).

Opportunities and Issues

- As these TFPA examples demonstrate, there are opportunities for mutual benefits when Tribes and the Forest Service work together.
- There are issues related to NEPA compliance:
 - Maintaining confidentiality of sensitive tribal information
 - Consideration during project and land management planning of consequences to tribal rights and interests, including potential TFPA projects.

Creating a New Generation of TFPA Projects

Before a project proposal is submitted, discussions and field visits by the Tribe and the Forest Service are recommended to see the nature and extent of:

- Threats or risks,
- Current activities that would exacerbate or eliminate the risk, and
- Whether TFPA is the appropriate authority and whether there are other authorities that can be used.

TFPA Proposal

- Collaboration on the development of the proposal is encouraged to work out the best approaches, expedite approval and subsequent actions.
- The Tribe and FS may also want to collaborate with others such as local stakeholders, other landowners, other governments, and community organizations to build broad ownership and support early in the process.

TFPA Proposal

See TFPA Proposal Template Handout

TFPA proposals should clearly identify:

- What are the threats coming from FS administered lands? Where are they?
- How do those threats pose a risk to tribal trust lands and resources? Where are those risks on tribal lands?
- What are the ways to reduce those threats and related risks?

TFPA Proposal

- Are there FS administered lands that are in need of restoration?
- What are the relevant features or circumstances unique to the Tribe?
- What are the tribally related factors that should support special consideration?

Forest Service Response

- Collaboration in developing the proposal will foster a timely and affirmative response.
- The Regional Forester is delegated responsibility to respond to the Tribe's request, but will rely on District Ranger and Forest Supervisor reviews.

Implementation

There are many steps before a project can be implemented:

- Funding for both planning and implementation;
- Field checking to examine current conditions;
- Compliance with environmental laws;
- Consultation /coordination with other governments;
- Consideration of the most appropriate instruments, e.g., agreements vs contracts.

We will discuss many of these topics later in this workshop so you can apply the most current information to your own project.

Implementation

- Collaboration can continue from proposal to project to post-project monitoring to see if the project was effective.
- Tribal –FS partnerships may encourage additional support with stakeholder endorsements and contributions to the TFPA project.

WMAT & FS Collaborating on the Los Burros Project



From L to R, Mark Goklish, WMAT, Amy McCabe Forest Service, Fred Cosay WMAT Photo Courtesy WMAT. Photo courtesy of the WMAT.



Questions or comments?

Collaboration Throughout the Process



Photo courtesy of Dan Meza, Forest Service

4/18/2017

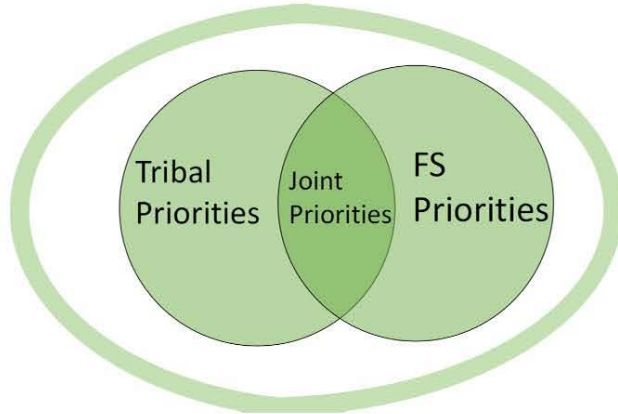
The TFPA Workshops

- The FS and the ITC have arranged for a Workshop in Region 6 to support the development of successful TFPA projects.
- Where: Little Creek Casino and Resort, Shelton, Washington
- When: May 9 through May 11, 2017.

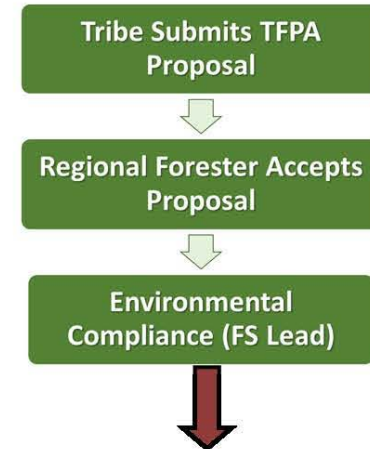
Objectives

- Participants are acquainted with what is needed to develop and draft a TFPA proposal and implement an approved proposal.
- Participants know what information they need to bring to the TFPA Workshops to maximize benefits of the session.

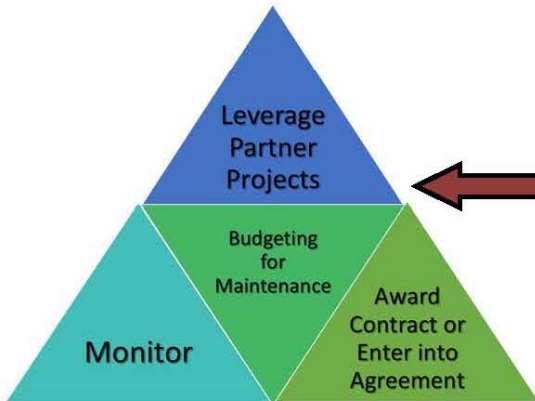
Pre-workshop Collaboration and Drafting the Initial TFWA Proposal



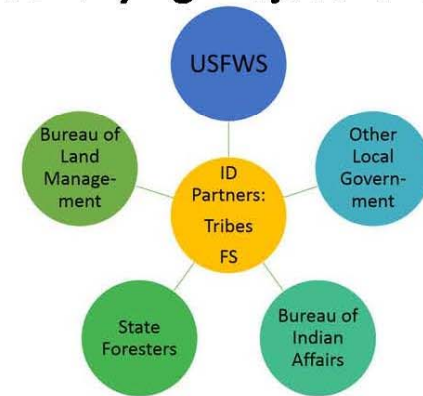
Submitting and Approving the TFWA proposal



Implementation



Identifying Project Partners



Completing Project Environmental Compliance

Pre-workshop Tasks

To maximize success, Tribes need to:

- Identify and prioritize areas at risk from threats coming from National Forests along the border areas and share that information with the FS.
- Prepare to discuss the appropriate treatment strategies and areas to be treated and the best mechanism(s) (e.g., contracting or agreement) to accomplish the work.

Pre-workshop Tasks

To maximize success, Forests need to:

- Identify where the appropriate NEPA has been done or is planned to be done (schedule of work) in these border areas and any conflicting contracts or other issues.
- Prepare to discuss appropriate treatment strategies and best mechanisms to accomplish the work.

Both parties should coordinate and share this information before they bring it to the workshop.

TFPA Proposal

- Collaboration on the development of the proposal is encouraged to work out the best approaches, expedite approval and subsequent actions. Collaborative Planning ensures that when there is agreement on the threats and risks, existing or potential conflicting actions can be addressed through consultation and communication.
- The Tribe and Forest may want to collaborate with others to build broad ownership and support early in the process.

TFPA Proposal Template

Indian Forest Land: The Tribe wants to protect ____ acres and/or __ miles of tribal forestlands that are within the ____ Indian Reservation that adjoin the ____ National Forest. These tribal lands are in trust status.

Project Location: The Tribe is proposing a project on lands administered by the ____ National Forest in ____ County. These lands are located in ____ and are adjacent to/or near the ____ portion of the reservation. The project area encompasses portions of Townships _____. The attached location map displays the project area and the tribal trust lands to be protected.

The Tribe has been working with Forest Supervisor _____ and District Ranger _____ over the past year (see attached documents).

TFPA Proposal Template

Threat to Tribal Lands (Modify and adapt the following example as appropriate):

High accumulations of vegetative fuels exist throughout the area, posing a significant wildfire threat to the adjoining tribal trust lands and tribal community. The ___Region of the Forest Service has identified the area as having a “very high” Fire Hazard and Risk Index and the ___tribal community is considered a “Community at Risk”.

Additionally, the ___Land Management Plan references the issues in this area.

TFPA Proposal

Threat to Tribal Lands (continued; modify and adapt this example as appropriate continued):

The presence of _____ forest insects and/or _____ forest disease combined with excessive surface fuels, overstocking of _____ trees, further poses a forest health threat to tribal trust lands.

TFPA Proposal Template

Project Objectives:

Approximately ____ acres of land administered by the ____ National Forest will be treated through a combined fuels reduction and forest restoration project strategically placed at ____ within the project area. Vegetation will be treated by a combination of manual, mechanical and prescribed burning methods to bring down fuel loads and tree densities. We understand that there may be alternatives analyzed and we will be consulted on those alternatives. Please see attached map. We anticipate that these treatments will be implemented over a period of ____ years.

TFPA Proposal Template

Risk Reduction:

The project is designed to reduce the risk to nearly _____ acres of tribal trust lands. The project will also benefit the _____ National Forest, several private ownerships and _____ state and local government lands. The project will compliment Tribal projects located _____ . The Tribe wants to implement this project (or the Tribe wants the FS to implement the project).

Refer to Map _____.

TFPA Proposal Template

Other Factors: The area includes features unique to the Tribe including salmon, a trust resource. The Tribe has a treaty (add name, date and other references). There are culturally important areas and resources such as medicinal plants.

There are no known existing contracts or agreements that could conflict with this proposal.

TFPA Proposal Template

Environmental Compliance: The Tribe understands that before the project will be implemented, the FS will comply with the National Environmental Policy Act (NEPA) and other relevant laws. The Tribe wants to collaborate on any environmental compliance and coordination with other governments.

TFPA Proposal Template

Tribal Contacts: Add Names, emails, phone numbers and addresses for:

Chairperson, Administrator, and Project Manager as appropriate.

Attachments: Recommend Map(s) illustrating the proximity of tribal trust lands at risk to national forest lands and threats and project location(s). Also Tribal – NF MOUs or agreements.

FS Response

Collaboration in the development of the proposal will assist in a timely and affirmative response.

The Regional Forester is delegated responsibility to respond to the Tribe's request, but will rely on District Ranger and Forest Supervisor reviews.

Implementation

There are many steps before implementation:

- Field checking to examine current field conditions and any changes.
- Compliance with environmental laws
- Consultation and coordination with other governments.
- Consideration of the most appropriate instruments, e.g., agreements vs contracts.
- Collaboration throughout implementation.

Questions or comments?