



USDA Forest Service Briefing Paper

Date 06/18/2008

Topic: Farm Bill 2008, Title VIII, Cultural and Heritage Cooperation Authority

Background: A legislative proposal was transmitted to the 109th Congress for its consideration by Secretary of Agriculture Mike Johanns. It resulted from recommendations developed by a Forest Service team that examined recurring issues impeding working relationships between American Indian and Alaska Native tribes and the Forest Service. In addition to policy and administrative recommendations, the team identified the need for new or clarified legal authorities. Senator Dorgan of North Dakota introduced the proposal into the Farm Bill. The Forest Service cultural and heritage cooperation authority would strengthen the Forest Service's commitment to American Indian and Alaska Native tribes by providing needed legal authority to improve government-to-government relationships. The Farm Bill was enacted on May 22, 2008 as Public Law 110-234.

Key Points: The Cultural and Heritage Cooperation Authority, in the Forestry Title VIII, Subtitle B (Sections 8101-8107) addresses reburials of human remains and cultural items on National Forest System (NFS) lands; temporary closure for traditional and cultural purposes; providing forest products free of charge for traditional and cultural purposes; a prohibition on disclosure of information pertaining to reburials, sites, or resources of traditional and cultural importance; and protection of all outstanding rights to use NFS land or other public land. The legislation specifically authorizes the following:

Reburial of Human Remains and Cultural Items (Section 8103): The Native American Graves Protection and Repatriation Act (NAGPRA) provides for repatriation of human remains and cultural items to lineal descendants and Indian tribes but does not address further disposition of these items. This authority explicitly authorizes the reburial of human remains and associated cultural items on NFS lands, when they were originally recovered from NFS or adjacent lands.

Temporary Closure for Traditional and Cultural Purposes (Section 8104): To the maximum extent practicable and for the shortest period and minimum area, the Secretary of Agriculture is authorized to temporarily close from public access National Forest System land for traditional and cultural purposes.

Forest Products for Traditional and Cultural Purposes (Section 8105): American Indian and Alaska Native tribes have special cultural and traditional needs for forest products located on NFS lands, such as logs and planks for cultural structures. The legislation creates an exception to a National Forest Management Act requirement to sell certain forest products by authorizing the Secretary to provide these products free of charge, when used for traditional and cultural purposes.

Prohibition on Disclosure (Section 8106): The Secretary is exempt from FOIA disclosure to allow for an increased level of confidentiality to protect information relating to reburials, sites, or resources of traditional or cultural importance, including human remains and information relating to traditional and cultural resources and practices provided in the course of research activities.

Severability and Savings Provision (Section 8107): This section preserves all existing tribal rights, all existing agreements among tribes and the Forest Service, existing trust responsibilities, and any other outstanding rights to use of NFS land or other public land.

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