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Subject: Land Management Plan Direction for Old-Growth Forest Conditions across the National Forest System, Document ID FS-2024-0001

Boozhoo Director Linda Walker,

The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) staff appreciate Forest Service efforts to continue to adapt and develop new policies and practices for conservation and climate resilience to support ecological, social, and economic sustainability in light of climate change, as well as Forest Service efforts to better understand and include tribal perspectives and needs in the development of such policies. This letter follows up and supplements GLIFWC staff comments submitted in two letters dated August 30, 2022, to Assistant Director Jamie Barbour and dated April 19, 2023, in a letter to Reed Robinson, Director of the Office of Tribal Relations with the subject: GLIFWC Response to Federal Old-Growth and Mature Forests RFI. Staff of GLIFWC offer these comments to the advance notice of proposed rulemaking; request for comment issued by the United States Department of Agriculture (USDA), Forest Service and July 20, 2023, letter to Director Christopher Swanston with the subject: Forest Service Functions, Document ID FS-2023-0006-0002.

GLIFWC is an intertribal natural resources agency exercising delegated authority from 11 federally recognized Indian tribes in Michigan, Minnesota, and Wisconsin. These tribes retain reserved hunting, fishing, and gathering rights on lands and waters in territories ceded to the United States. The Ojibwe Tribes' reserved treaty rights have been upheld in a series of federal court cases, including the US Supreme Court. To effectuate the full

exercise of these rights, the beings that are harvested as well as their associated habitats and ecosystems, must be conserved and protected. As these rights pertain to National Forest lands within treaty ceded territories, they are recognized and regulated through a long-standing Memorandum of Understanding (MOU) between the Forest Service and all 11 GLIFWC member tribes. This letter does not preclude member Tribes' individual viewpoints on the proposal in their own sovereign capacities.

From Aanji-bimaadiziimagak o'ow aki, page 7 on climate change:

[As it has been for centuries, Anishinaabeg descendants of those who migrated to the Great Lakes from the east guided by the miigis (shell) continue to rely upon animal and plant relatives to meet spiritual, ceremonial, medicinal, subsistence, and economic needs. Their on- and off-reservation hunting, fishing, and gathering activities demonstrate their exercise of treaty rights, tribal sovereignty, and cultural survival. Historically, tribal members were prosecuted for the exercise of their treaty rights and persecuted for practicing their culture and spirituality. Over time, activism, litigation, and intergovernmental agreements have facilitated a resurgence of culture and its expression through subsistence lifeways. However, climate change poses a new and potentially existential threat to Indigenous lifeways, culture, and identity. Indigenous peoples, particularly those who express their culture and relationship to their ancestral lands through subsistence practices, will be uniquely and disproportionately affected by these changes in climate.]

For over 25 years, a Memorandum of Understanding (MOU) has been in place that articulates the Forest Service's recognition of retained tribal treaty rights, tribal sovereignty, and tribal capacity to self-regulate. Signatories to the MOU are all 11 GLIFWC member Tribes, The Chequamegon-Nicolet National Forest, Ottawa National Forest, Hiawatha National Forest, Huron-Manistee National Forest, Regional Forest Supervisor, the Northern Research Station, GLIFWC and Forest Service Enforcement. Joint Secretarial Order 3403 , directs agencies under the USDA and the Department of the Interior to ensure their decisions and activities on public lands fulfill the unique trust obligation with federally recognized Tribes and their citizens.

Interest in participation as a cooperating agency.

Pursuant to its delegated governmental authority and responsibility to protect and steward the lands for the next Seven Generations, the Great Lakes Indian Fish and Wildlife Commission is interested in further discussions concerning potential participation as a cooperating agency in this Rulemaking.

The Ceded Territories and our shared National Forests are expected to see (and are already experiencing) increases in unpredictable severe precipitation events, ambient air and water temperatures, longer growing seasons, decreased water levels, more intense water level fluctuations, extended periods of drought, and an expected decline in ice cover and snow accumulation.

Need for change.

The Voigt Intertribal Task Force of the Great Lakes Indian Fish and Wildlife Commission has identified changes

needed to support the interrelated topic areas including:

- * Improving stewardship of old-growth forest conditions;
- * Improving durability, resilience, and resistance to fire, timber cutting, insects and disease within old-growth forest conditions across the National Forest System;
- * Strengthening the capacity of existing and future old-growth forest conditions to adapt to the ongoing effects of climate change;
- * Addressing future durability, distribution, and redundancy of old-growth forest conditions;
- * Incorporating Anishinaabe Gikendaasowin (Indigenous Knowledge) into planning, project design, and implementation to achieve forest management goals and help meet general trust responsibilities;
- * Reviewing hydrological and climate storage benefit and impact of old-growth forest conditions;
- * Establishing a National Old-Growth Monitoring Network; and
- * Providing direction for geographically informed adaptive management strategies.

Increased consultation with tribes must occur on all management actions.

Maturing and old-growth forests on National Forest System lands are threatened by wildfires, tree cutting, and climate change. Additional consultation with Tribes must occur to fully consider threats to the National Forests including climate amplified disturbances such as wildfire, insects, and disease.

The Forest Service needs to increase consultation capacity with Tribes to help meet specific treaty obligations and general trust responsibilities, inherent and reserved rights codified through treaties, US Constitution, statutes, case law, Presidential Executive Orders, USDA Regulations, and the USFS Handbook (Wilkinson 2004, USFS 2009). The current Forest Service and tribal capacity to facilitate shared caretaking responsibilities is deficient. Deficiencies have been identified in Anishinaabe Gikendaasowin (Indigenous Knowledge) incorporation into the Old-Growth Conditions Land Management Plan Direction. Additionally, deficiencies have been identified in notice to Tribal Governments and Governmental Agencies in Forest Service planning, project design, and implementation to achieve forest management goals. Increased capacity for tribal governments and Forest Service is an important first step to meet shared caretaking responsibilities.

Forest Service efforts have improved, but much work must still occur to fulfill co-stewardship responsibilities of our National Forests. In a spirit of collaboration and partnership to manage lands, the proposed Land Management Plan Direction for Old Growth Conditions Across the National Forest System must increase the frequency and level of authority afforded to Anishinaabe Gikendaasowin (Indigenous Knowledge) through a more robust consultation process with tribes for all management actions.

To appreciate impact to treaty affirmed inherent rights of Tribes, Anishinaabe Gikendaasowin (Indigenous Knowledge) must guide the land management plan direction for old-growth forest conditions. These treaty rights include but are not limited to - harvesting materials for cultural activities, hunting and fishing, spiritual and religious ceremonies, access to sacred sites, and harvesting manoomin (wild rice) (USFS 2010). Anishinaabe Gikendaasowin is a necessary component of co-stewardship to ensure forests have the inherent capability to sustain old-growth conditions and support traditional lifeways. For Tribal communities and economies to thrive, a consistent approach to management of old-growth forest with sufficient distribution, abundance, and ecological integrity (composition, structure, function, connectivity) must guide land management plans.

The definition of Old Growth is inadequate.

The existing definition framework of old growth is significantly deficient when applied in the Ceded Territories and the four signatory forests of the MOU. Anishinaabe Gikendaasowin (Indigenous Knowledge) must guide definition framework and application of the old-growth conditions plan direction.

The US Forest Service's Eastern Region is where our Nation's most water-rich and ecologically diverse forests occur and cannot all be lumped into this general definition framework for old growth. According to the Forest Service, "direct application of working definitions should be preceded by evaluation of the indicators and thresholds which were selected to apply FIA data at national scale," further, "appropriateness of indicators has not been tested for regional vegetation types at local levels." Regional vegetation types at local levels are inappropriate and must be further identified for plan direction to have meaningful impact on Eastern Region forests. The features suggested in the current working definition are good indicators for monitoring and identifying desired conditions that need to be enhanced in old-growth stewardship areas. However, consensus on a definition should not delay implementation of this initiative.

Establish 50% of Each National Forest as Old-Growth Stewardship Areas.

Old-growth stewardship areas must focus management on enhancing the benefits that can be obtained from older forests but also incorporate both trust responsibilities and treaty rights of tribes to use resources of these forests. Tribes use the forests for their life way and forests need to be diverse to provide the tribes all that they need. Diversity in species composition and age are important components to these ecosystems. Today, our forests look much different than pre-settlement which has placed additional burden on fire suppression. The Ceded Territories are facing new threats, including from climate change, diseases, rapid development, and unsustainable resource exploitation.

Fifty percent of each National Forest should be identified as Old-Growth Stewardship Areas and every ecological community forest type should be considered in establishment of these areas, with priority on the oldest stands in each forest. A significant establishment of old-growth forests must occur, identified with multiple understandings of forest management, including consideration of all forest types. For example, all wetland forests like black ash, spruce, and cedar, or forests growing on poor sandy soils like jack pine, scrub oak forests need to be considered in old-growth stewardship decisions. Once areas are established, management actions that would promote old forest conditions for all beings must be developed.

Weweni sa go,

Jason Schlender

Manidoo Noodin

Executive Administrator

Great Lakes Indian Fish and Wildlife Commission

Cc: Region 9 Forester Tony Dixon

Footnotes:

Proposed Rule: Forest Service Functions, Document ID: FS-2024-0001

GLIFWC member tribes are: In Wisconsin - the Bad River Band of the Lake Superior Tribe of Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac Courts Oreilles Band of Lake Superior Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of the Mole Lake Band, and Red Cliff Band of Lake Superior Chippewa Indians; in Minnesota - Fond du Lac Chippewa Tribe, and Mille Lacs Band of Chippewa Indians; and in Michigan - Bay Mills Indian Community, Keweenaw Bay Indian Community, and Lac Vieux Desert Band of Lake Superior Chippewa Indians.

Treaty of 1836, Treaty of 1837, Treaty of 1842, Treaty of 1854.

GLIFWC Climate Change Team. 2023. Aanji-bimaadiziimagak o'ow aki. Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin. 332 p.

Order No 3403. Department of the Interior and Department of Agriculture. Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters.

Anishinaabeg originally translates to "original people" and refers to the Great Lakes Tribes and Council of Three Fires, including the Ojibwe (Chippewa), Odawa (Ottawa) and Potawatomi peoples. Gikendaasowin refers to knowledge, science, or Indigenous Knowledge. In this context Anishinaabe Gikendaasowin may be used interchangeably with Indigenous Knowledge in the English language.

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ATTACHMENT: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System 02Feb24 - Comments were also entered in CARA by commenter; coded/completed.