

Authorization ID: CHI84
Contact ID: KLAMATH TRIBES
Expiration Date: 11/15/2008
Use Code: 311, 312

FS-2700-25 (02/99)
OMB NO. 0596-0082

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
TEMPORARY SPECIAL - USE PERMIT
(FSH 2709.11, sec. 54.6)

AUTHORITY:

LAND AND WATER CONSERVATION FUND ACT OF 1964, AS AMENDED September 3, 1964,
AMERICAN INDIAN RELIGIOUS FREEDOM JOINT RESOLUTION August 11, 1978

**THE KLAMATH TRIBES
P.O. BOX 436
CHILOQUIN, OR 97624**

hereinafter called the Holder, is hereby authorized to use, subject to the terms and conditions of this permit, National Forest System land identified within the Fremont-Winema National Forests, Chemult and Chiloquin Ranger Districts as shown on the attached Maps (Exhibits A).

The holder is authorized to conduct the following activities on the permitted area:

Traditional/Cultural Use; Traditional/Cultural Youth Training; Subsistence Activities

The holder is authorized to install the following temporary improvements on the permitted area:

Temporary camp sites including, but not limited to, pole structures, tee pees, and other shelters.

TERMS AND CONDITIONS

1. Use under this permit shall begin on Authorized Forest Officers' Signature Date and end on 11/15/2008. The permit shall not be extended.
2. The fee for this use is waived per 36 CFR § 251.57.
3. The holder shall conduct the authorized activities according to the attached approved plans and specifications, Exhibit B (Klamath Camping Code, June 16, 2000); Exhibit C (Memorandum of Agreement. The Klamath Tribes and U.S. Forest Service, as amended February 17, 2005; and Exhibit D (Operating Plan for this permit #CHI84).
4. The holder shall not install any improvements not specifically identified and approved above.
5. No soil, trees, or other vegetation may be destroyed or removed from National Forest System lands without specific prior written permission from the authorized officer.
6. The holder shall comply with all Federal, State, county, and municipal laws, ordinances, and regulations which are applicable to the area or operations covered by this permit.
7. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. The holder shall fully repair and bear the expense for all damage, other than ordinary wear and tear, to National Forest System lands, roads and trails caused by the holder's activities.
8. The holder has the responsibility of inspecting the use area and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which would pose a risk of injury to individuals. After securing permission from the authorized officer, the holder shall remove such hazards.
9. The holder shall be liable for any damage suffered by the United States resulting from or related to use of this permit, including damages to National Forest resources and costs of fire suppression.
10. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.
11. The holder agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the permit or with the reasonable exercise and enjoyment by the holder of the privileges thereof.
12. This permit is subject to all valid existing rights and claims outstanding in third parties.

13. This permit may be revoked upon breach of any of the conditions herein or at the discretion of the authorized officer. Upon expiration or revocation of this permit, the holder shall immediately remove all improvements except those owned by the United States, and shall restore the site within 30 day(s), unless otherwise agreed upon in writing. If the holder fails to remove the improvements, they shall become the property of the United States, but that will not relieve the holder of liability for the cost of their removal and restoration of the site.

14. This permit is a license for the use of federally owned land. It does not grant any interest in real property. This permit is not transferable. The holder shall not enter into any agreements with third parties for occupancy of the authorized premises and improvements.

15. Appeal of any provisions of this permit or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereof.

16. This permit is accepted subject to the conditions set forth herein, condition(s) 1-19 and Map Exhibits A; Exhibit B (Klamath Camping Code), Exhibit C (MOA), Exhibit D (CH184 Operating Plan) attached to and made a part of this permit.

17. The above clauses shall control if they conflict with additional clauses or provisions.

18. Operating Plan (C8). The holder shall provide an Operating Plan. The plan shall be prepared in consultation with the authorized officer or designated representative and cover operation and maintenance of facilities, dates or season of operations, and other information required by the authorized officer to manage and evaluate the occupation and/or use of National Forest System lands. The provisions of the Operating Plan and the annual revisions shall become a part of this authorization and shall be submitted by the holder and approved by the authorized officer or their designated representative(s). This Operating Plan is hereby made a part of the authorization. (Exhibit D)

19. Signs (X29). Signs or advertising devices erected on National Forest System lands shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

I have read and understand the terms and conditions and agree to abide by them.

HOLDER: The Klamath Tribes

By: Joe Kirk

Printed Name: Joe Kirk

Address: P.O. Box 436, Chiloquin, OR 97624

Date: 6-23-08

U. S. DEPARTMENT OF AGRICULTURE
Forest Service

By: Fred Wahl

Chemult District Ranger, Fred Wahl

By: Mike Lawrence

Chiloquin District Ranger, Mike Lawrence

Date: 6/29/08

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.






This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

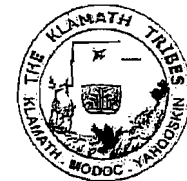
The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, sublease information, and other similar miscellaneous information requests. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

TRIBAL CAMPS BOUNDARY

LEGEND

-  Tribal Camp
- PLS
-  Camp Boundary
-  Main Road
-  Spur Road
-  Fremont/Winema NF

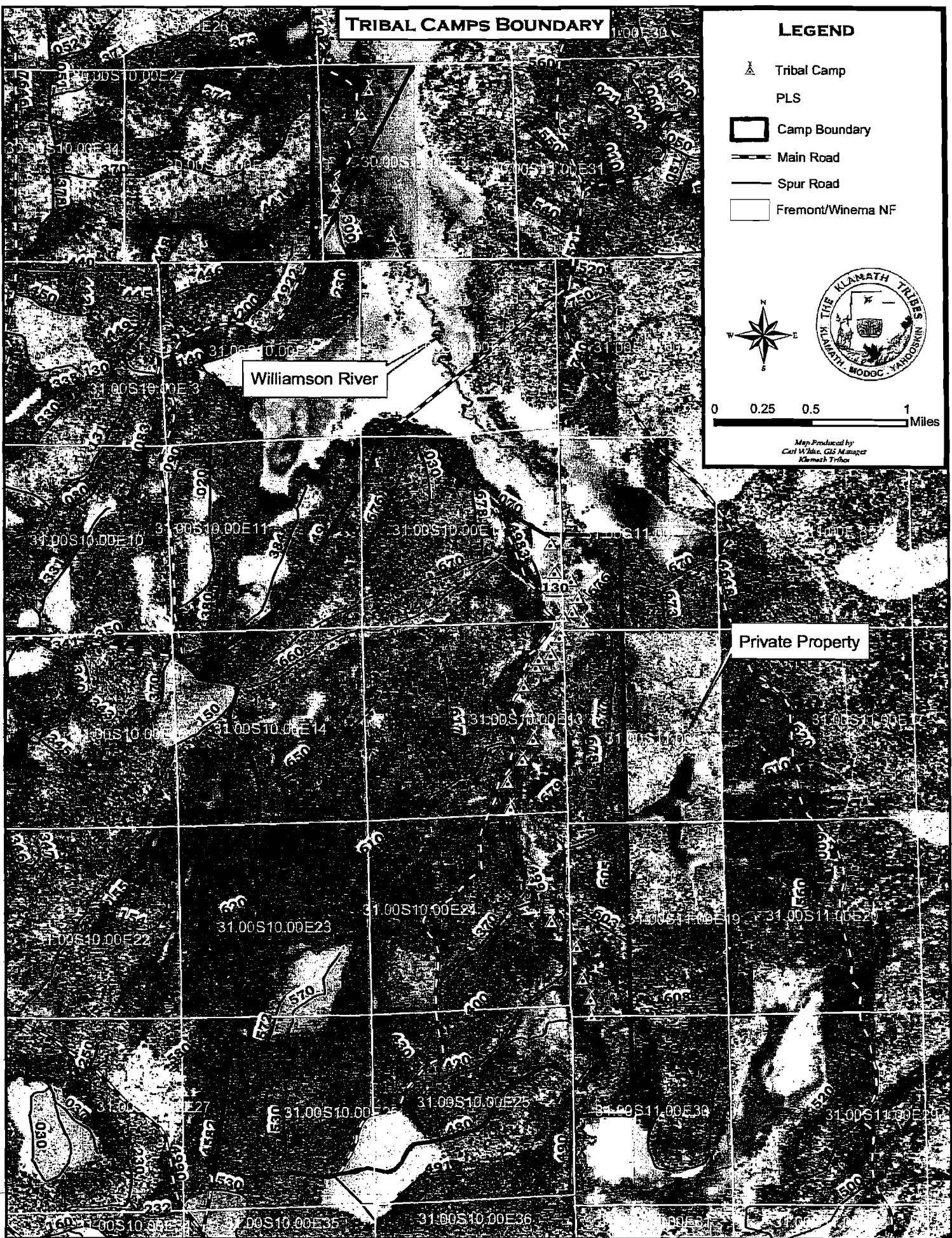


0 0.25 0.5 1 Miles

Map Produced by
Carl White, GIS Manager
Klamath Tribes

Williamson River

Private Property



BOUNDARY SPRINGS TRIBAL CAMP BOUNDARY

LEGEND

 Tribal Camp

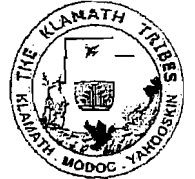
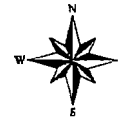
PLS

 Camp Boundary

 Main Road

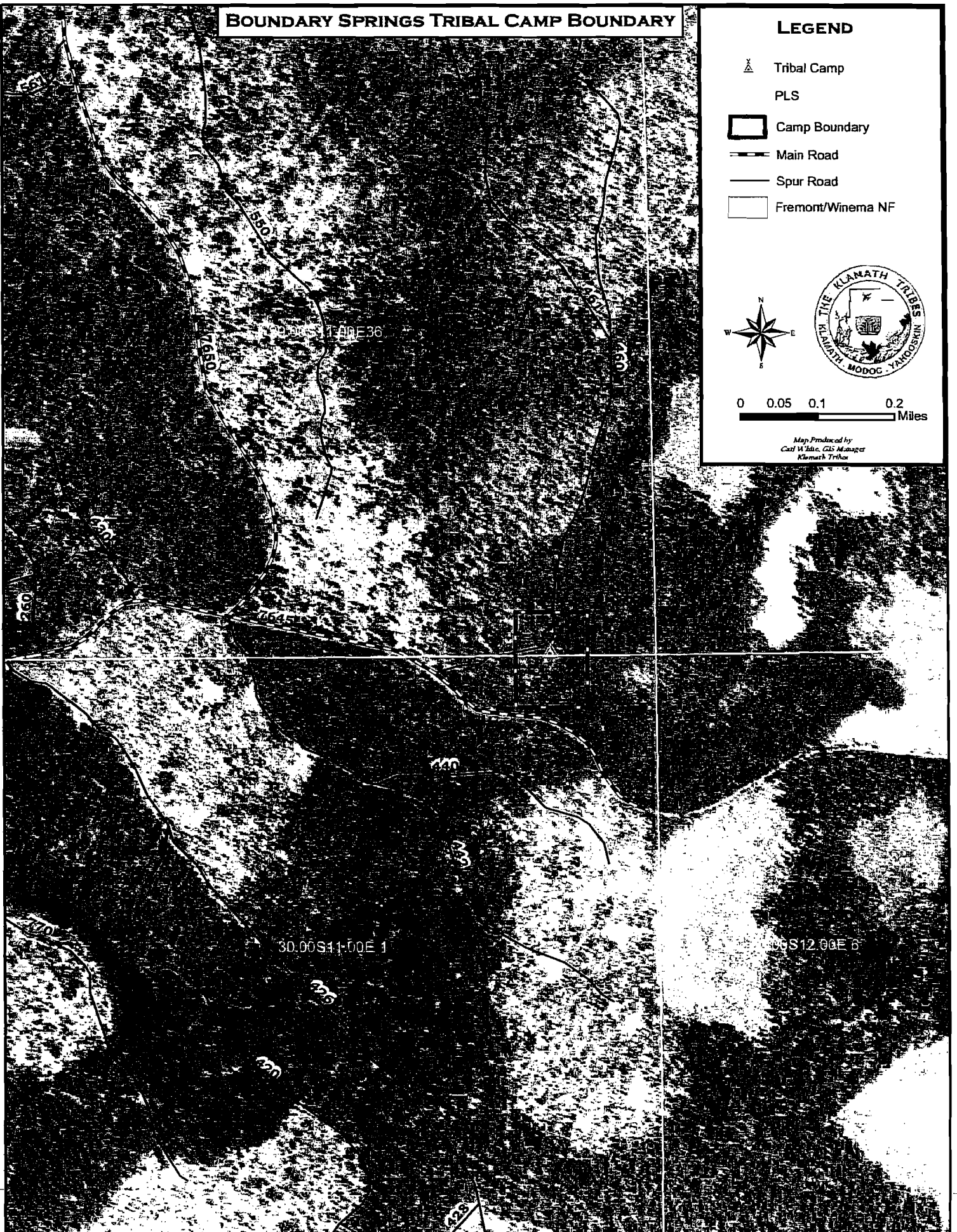
 Spur Road

 Fremont/Winema NF








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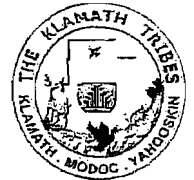
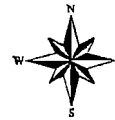
Map Produced by
Cecil White, GIS Manager
Klamath Tribes



JACKSON CREEK TRIBAL CAMP BOUNDARY

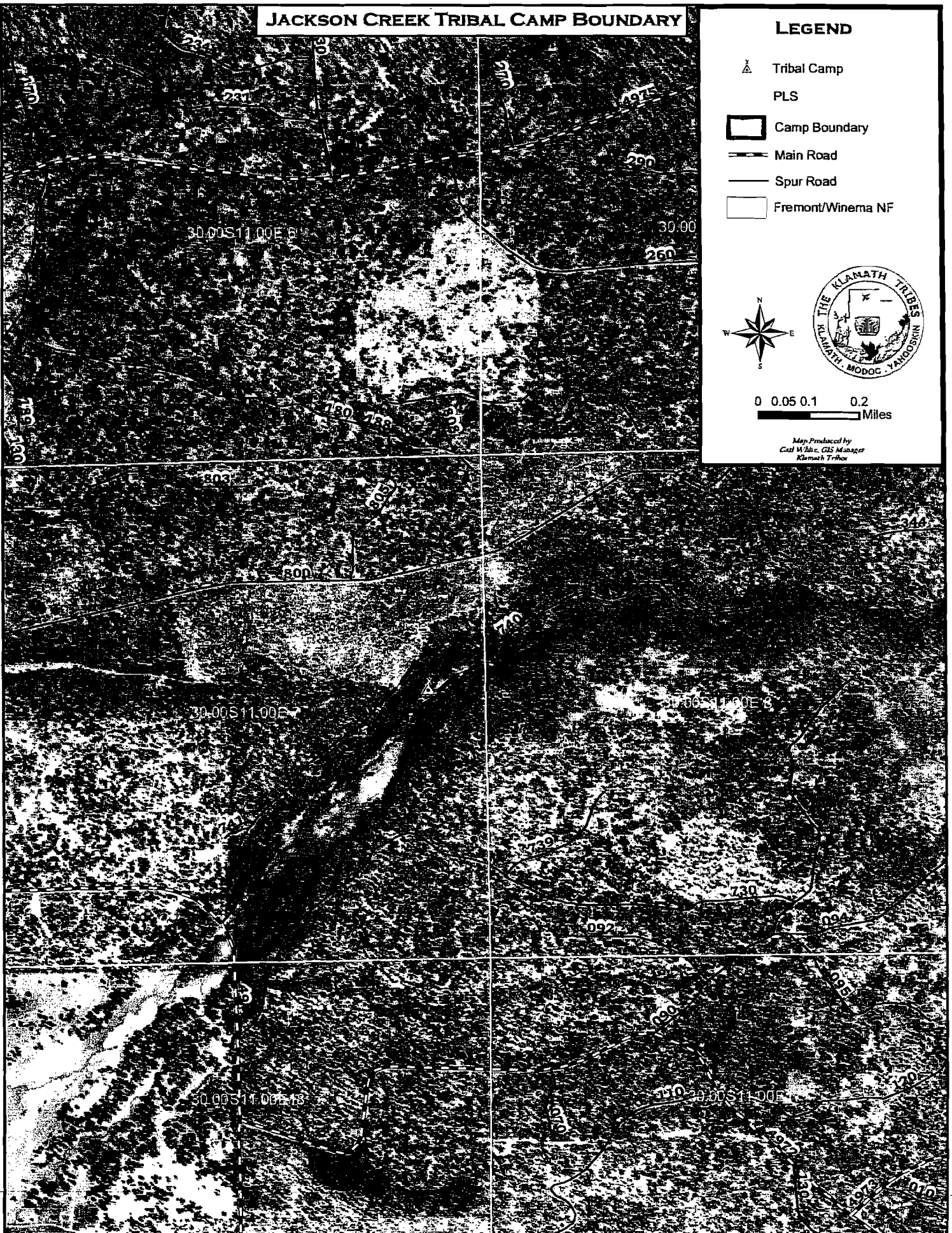
LEGEND

-  Tribal Camp
- PLS
-  Camp Boundary
-  Main Road
-  Spur Road
-  Fremont/Winema NF








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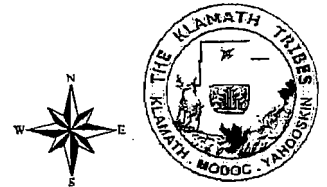
Map Produced by
Ced White, GIS Manager
Klamath Tribes



BUCKHORN TRIBAL CAMP BOUNDARY

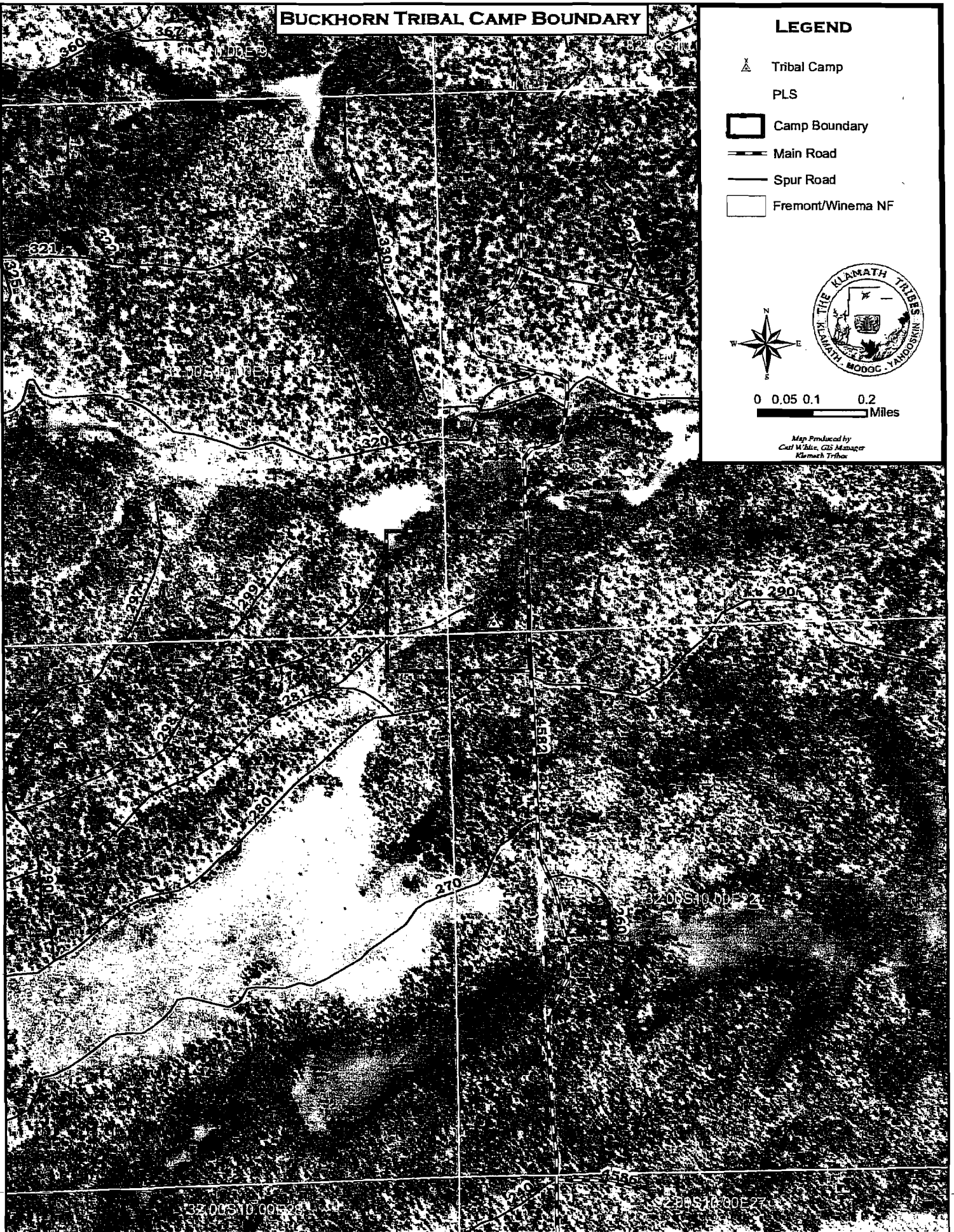
LEGEND

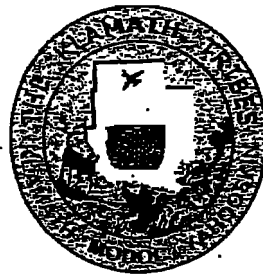
-  Tribal Camp
- PLS
-  Camp Boundary
-  Main Road
-  Spur Road
-  Fremont/Winema NF



0 0.05 0.1 0.2
Miles

Map Produced by
Carl White, GIS Manager
Klamath Tribes





The Klamath Tribes

Tribal Council

EXHIBIT B

KLAMATH CAMPING CODE

Section 1: Purpose

1-1

This code establishes rules and regulations governing the camping of tribal members within the traditional areas of the Tribes. It further spells out the responsibility of Tribal campers, for the purposes of campsite use within the reserved camping areas; and where appropriate within the Reservation area of 1954. This code is also enacted to ensure that camping by tribal members is done in a safe and responsible manner and is harmonious with the guidelines and policies protecting our Treaty Reserved Rights.

Section 2: Authority

2-1

The rights to hunt, fish, trap, and gather within the boundaries of the former Reservation was reserved by the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians in the Treaty of October 14, 1864 (16 Stat. 707). The authority to regulate the use of natural resources within the boundaries of the former Klamath Reservation is reserved to The General Council in Article VI Sec. 1 of the Constitution of the Klamath Tribes.

2-2

The Klamath Tribal Council is authorized to adopt rules necessary for the conduct of Tribal business as delegated pursuant to Article VI Sec. 1-J of the Constitution of the Klamath Tribes.



4-4

Camp users shall dispose of refuse waste materials, garbage, and rubbish of all kinds by packing it out to an approved sanitary land fill or by burning biodegradable material.

4-5

Tribal camp sites are for tribal members only. However, non-Indian family members may use the camp site as long as the Tribal member is present.

4-6

All domestic animals will be restricted to camping area. All animals must be maintained and restrained in camping area, to prevent harassing of other campers and all wildlife.

4-7

Tribal campers do not need a permit to gather small quantities of wood for campfires. Firewood may be gathered anywhere within the 1954 boundary. Tribal members must have tribal identification card in their possession when gathering firewood. (No more than ½ cord may be gathered at one time for the campsite)

4-8

Tribal campers do not need a permit to gather other non-firewood subsistence, for cultural and spiritual uses on a year-round basis. This includes, but is not limited to, gathering green and dry aspen and mahogany for smoking meat, gathering poles for camping purposes, and other cultural and spiritual purposes. Tribal members must have tribal identification card in their possession when gathering these non-firewood materials.

Section 5: Enforcement

5-1

The Natural Resources Department shall be responsible for the development and maintenance of Tribal camping area site maps.

5-2

The Natural Resources Department shall be responsible for the enforcement of the regulations contained within this code, including issuing citations for violations of this code.

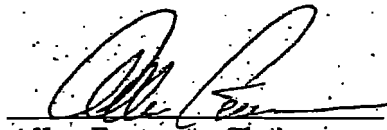
5-3

Persons issued a citation shall be entitled to a full hearing on the charge or charges brought against them within a reasonable time, not to exceed 90 days, in the Klamath Tribal Court.

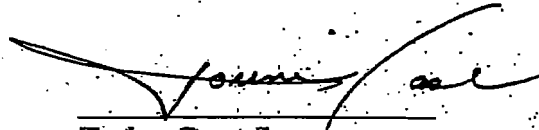
CERTIFICATION

We, the undersigned, as Chairman and Secretary of the Klamath Tribes, do hereby certify that at a scheduled Tribal Council meeting held on the 23rd day of October, 2003, where a quorum was present, the Tribal Council duly adopted this Resolution by a vote of

7 for 0 opposed 1 abstaining.



Allen Foreman, Chairman
The Klamath Tribes



Torina Case, Secretary
The Klamath Tribes

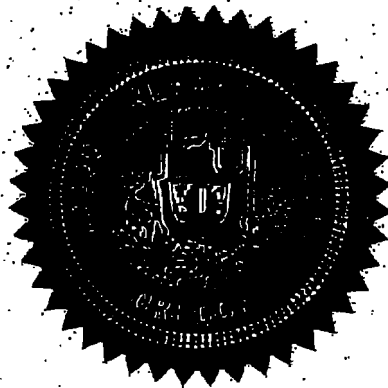


EXHIBIT C

MEMORANDUM OF AGREEMENT

THE KLAMATH TRIBES

AND

U.S. FOREST SERVICE

February 19, 1999

As amended

February 17, 2005

MEMORANDUM OF AGREEMENT BETWEEN THE KLAMATH TRIBES AND THE FOREST SERVICE

This Memorandum of Agreement (MOA) is entered into between the Klamath Tribes, a federally recognized Indian Tribe comprised of the Klamath, Modoc and Yahooskin Band of Snake Indians, by and through their Tribal Chairman, and the United States Department of Agriculture (USDA) Forest Service, by and through the Regional Forester of the Pacific Northwest Region (Region 6).

INTENT AND OBJECTIVES

The intent of this Memorandum of Agreement is to establish policies and procedures that implement a government-to-government consultation process between the two parties. The objective of the parties is to clarify, define and implement the government-to-government consultation Process between the USDA Forest Service on behalf of the United States, and the Klamath Tribes, regarding the resources which Tribal members have utilized and provided stewardship for since time immemorial.

I. RECITATIONS

- (a) United States Forest Service: The parties recognize that the United States Forest Service has the responsibility to fulfill the Forest Service policies in their management of the lands, waters and the resources of the National Forest system, and has been delegated the broad decision-making authority regarding the resources thereon, as directed in existing federal statutes. These federal policies include honoring treaty rights of Indian Tribes and fulfilling Forest Service responsibilities associated therewith to the Klamath Tribes.
- (b) Klamath Tribes: The parties recognize that the Klamath Tribes, governed by the Klamath General Council is a sovereign government with responsibilities to past, present and future generations of Klamath people. One element of meeting that responsibility is the successful implementation of Tribal policies. The Klamath Tribal Chairman, Klamath Tribal Council, and authorized staff have been delegated the authority to represent the Tribes in the management of the treaty and trust resources and also to work as a cooperative government in the initiation, development and implementation of Forest Service policy and management decisions that potentially impact the sovereign and other rights of the Klamath Tribes. The Constitution of the United States recognizes Indian tribes as sovereign governments. Sovereignty includes the inherent right and power of a people to govern themselves and their affairs. The United States and the Klamath Tribes explicitly affirmed this sovereignty by entering into the Treaty of 1864.
- (c) Treaty of 1864: The Klamath Tribes entered into a Treaty with the United States in 1864, reserving, among other things, the right of Tribal members to hunt, fish, trap and gather on their reservation lands for their livelihood in perpetuity. The Tribes' Treaty Rights include interests in off reservation areas. Federal Courts have held that these rights have survived the termination of the Tribes and the transfer of ownership of their reservation.

- (b) Level of Government-to-Government Relationship: The parties acknowledge that the appropriate level for this government-to-government coordination is between the Tribal Chairman, as the representative of the Klamath Tribes General Council, and the Regional Forester of the Pacific Northwest Region of the United States Forest Service, in his capacity as a representative of the Federal government. The parties acknowledge that there are decisions made at higher levels than the Regional Forester that may effect Treaty rights or other Tribal privileges and interests, and the Tribes reserve the right to negotiate and consult at those higher levels when they determine it to be appropriate.
- (c) MOA Does Not Replace Appeals Process: The conflict resolution mechanisms contained in this MOA are not intended to replace the existing appeals process that governs the activities of the Forest Service, and by entering into this MOA the Klamath Tribes do not waive any right to appeal decisions of the Forest Service pursuant to that process.
- (d) Coordination and Communication Between Staff: Another purpose of this MOA is to facilitate the mutual coordination, communication and exchange of management and resource information and data between the Tribes and the Forest Service.
- (e) Proposals Initiated by the Tribes: The parties recognize that in its role as a sovereign government, the Klamath Tribes have the expertise and responsibility to initiate proposals for policy direction, standards and guideline direction, and site-specific management direction. The MOA sets out certain mechanisms to facilitate Tribal participation in planning processes addressing policy, standards and guidelines and/or management activities.
- (f) Tribes' Role is More Than That of Another Interested Public: The parties recognize that as a sovereign government, the Tribes are more than simply another interested public. The Tribes and the Forest Service, as an agency of the federal government, work as cooperative governments in policy and management decisions that impact the sovereignty and other rights of the Klamath Tribes. This MOA establishes procedures and protocols for tribal participation. These are in addition to those rights specified under NEPA, NFMA, NHPA or other relevant federal laws or regulations.
- (g) Issues to be Addressed in Consultation: The parties intend that all issues relevant to the protection and enhancement of Treaty and trust resources shall be addressed in consultation, including but not limited to the following: coordination and consultation between the parties regarding impacts on habitats affecting fish, plants and wildlife populations, the application and use of watershed analysis and ecosystem management, and any scientific concepts that may succeed these approaches, appropriateness or effectiveness of existing plans, policies and guidelines for resource protection, cultural components of resource use and protection, and protection of cultural resources, including maintaining confidentiality regarding such resources.

"Forest Plan" shall mean the Land and Resource Management Plan adopted pursuant to the National Forest Management Act of 1976, which establishes management plans and activities for the lands, waters and other resources of a National Forest.

"Forest Service Line Officer" shall mean the Regional Forester, the Forest Supervisors and the District Rangers.

"Forest Service Staff" shall mean employees of any of the line officers.

"Forest Supervisor" shall mean the Supervisor of a National forest.

"Game Commission" shall mean the Klamath Indian Game Commission.

"General Council" shall mean the General Council of the Klamath Tribes.

"Regional Forester" shall mean the Regional Forester of the United States Department of Agriculture, United States Forest Service, Region Six (6).

"Sovereign Rights of the Klamath Tribes" shall mean the rights of the Klamath Tribes as a sovereign nation, including but not limited to the Tribes' Treaty rights, all inherent sovereign rights recognized by common law, case law or statute, and other sovereign rights conferred by case law or statute, including the right to self-determination, and the right to ownership and disposition of cultural resources to the extent provided by law.

"Standards and Guidelines" shall mean the Standards and Guidelines adopted or amended by the Forest Service regarding the management of the lands, waters and other resources of the National Forests of Region Six (6).

"Treaty Rights" shall mean the rights reserved by the Klamath Tribes in the Treaty of 1864 and the relevant court decisions interpreting those Rights.

"Treaty Rights Area" shall mean the geographical area in which members of the Klamath Tribes may exercise their Treaty Rights pursuant to the Treaty of 1864 and the relevant court decisions interpreting those Rights. (See map).

"Tribal Chairman" shall mean the chairman of the General Council of the Klamath Tribes.

"Tribal Council" shall mean the Tribal Council of the Klamath Tribes.

"Tribal Director" shall mean an individual appointed or hired by the Tribes to exercise management responsibility over a tribal department or program, including but not limited to the Directors of the Tribal Department of Natural Resources and Culture and Heritage Department.

and Forest Plan revisions that have a potential to impact the Tribes' Treaty Rights, privileges and interests. Such notice shall be copied to the Tribal Council of the Klamath Tribes.

- (c) Tribal Input, Recommendations & Proposals: For issues identified in subparagraph (a) and (b) above, the Regional Forester shall ensure that the action is developed in a way that incorporates and implements the Tribes' input to the fullest extent possible.

1. Timetable: The Regional Forester, at the annual meeting or in writing pursuant to section (b), shall inform the Tribes of the administrative actions to be addressed, and shall present the Tribes with a proposed timetable as specific as possible as to meetings, goals and completion regarding the actions to be addressed. The Tribe shall provide input to the proposed schedule within 10 working days in order to ensure proper coordination and full participation.

2. Appointment of Tribal Representatives: The Regional Forester and the Tribal Chairman shall jointly establish a schedule for meetings and/or the exchange of information between Tribal representatives and Regional Forester staff. The Tribes may appoint Tribal representatives to attend meetings with Regional Forester staff. The Regional Forester and Tribal Chairman shall ensure that their respective staffs meet and/or exchange information on a regular basis, as needed, throughout the planning and decision making process. The Forest Service staff and Tribal representatives shall discuss the decision-making process, the scientific data, information and analysis, and tribal input and recommendations. The input of Tribal representatives shall be considered part of the baseline data for the development of the actions to be taken, pursuant to the procedures set out below.

3. Procedure Regarding Tribal Recommendations:

A. If the Tribal representatives, appointed to the process, make specific recommendations based on sound scientific, cultural and ecosystem management principles and consistent with existing law, and on behalf of the Tribes that the Regional Forester decides not to follow, the Regional Forester shall provide written reasons for rejecting the Tribes' recommendations which must fully discuss and analyze the input provided by the Tribes based on an understanding of the Treaty and Trust Responsibility owed to the Tribes by the Forest Service.

B. The Tribal Chairman shall review the recommendation and reasons for refusal. The Chairman may respond with additional information or alternative recommendations and may request a meeting with the Regional Forester, which shall take place within a reasonable amount of time. These consultations shall be undertaken in good faith and shall be directed towards the development of a mutually acceptable resolution and may include utilization of third parties.

purpose of these meetings is to facilitate Tribal consultation over proposed projects prior to public scoping. Minutes of the quarterly meetings will be kept, with copies sent to the Klamath Tribes.

1. Tribal Initiated Proposals. In its role as a sovereign government with sovereign rights and sovereign responsibilities, the Klamath Tribes are recognized as possessing the expertise and responsibility to initiate policy and/or standard and guideline direction. Any proposal for management activities or policy from the Tribes shall be presented by the Tribal Directors to the appropriate Forest Supervisor, either at the quarterly meetings, or in writing if between such meetings. If the issue is deemed to be within the authority of the Forest Supervisor, the Supervisor may, as necessary, appoint a working group to consider the proposal. At least one Tribal staff person, appointed by the Tribes, shall be a part of the working group. The same procedures set out in this Section for Forest Service initiated proposals shall be followed for Tribal initiated proposals.

2. Emergency Situations. Forest Service and Tribal staff recognize that situations may develop in which unplanned factors (i.e. flood, fire, erosion, damage control etc.) may result in an emergency situation that requires the immediate initiation of an environmental assessment. The parties agree to contact one another immediately should such a situation occur, and to initiate cooperative efforts to protect the affected resources.

- (b) Tribal Involvement Prior to Public Scoping. The Forest Supervisors and District Rangers shall ensure that Tribal Program Directors are contacted (either at the quarterly meetings or in writing) prior to public scoping of any projects or activities that may impact Tribal Treaty right resources. The Forest Supervisors and District Rangers shall ensure that there is adequate time (at least 90 days) prior to the release of a public scoping notice to ensure pre-scoping consultation as described herein, provided, that public scoping can proceed in less than 90 days if mutually agreed to by the parties or if an emergency situation (as defined above) occurs. The Tribal Directors shall assign program staff to meet with the appropriate Forest Service staff to discuss the contemplated project, the draft scoping notice or other issues relevant to the project, including whether or not the scoping notice should be released or if it should be substantially revised prior to release. The assigned Tribal staff will be the primary contact for the specific project. If no tribal staff are assigned, information on the project shall be sent to the Tribal Directors. If the Klamath Tribes have no interest in the project, the Tribes shall notify the Forest Service within 15 working days. The parties shall share all relevant information regarding the proposed project or activity.

1. Tribal Staff Input. The Forest Supervisor or District Ranger shall ensure that the input received from Tribal program staff designated to work on the proposed activity or project, is considered as part of the baseline data for the development of the activity or policy.

2. Request for Extension of Time Prior to Scoping. The Tribes and the Forest Service acknowledge the importance of developing time schedules to meet the priorities of both parties. The parties will jointly prepare time schedules for meetings, exchanges of

development of mutually acceptable resolutions. If the conflict cannot be mutually resolved at this level, either party may initiate the procedures set out in subsection (f) below (Dispute Resolution).

(d) Consultation Prior to Release of Environmental Assessment or Draft Environmental Impact Statement.

The Forest Supervisors and District Rangers shall ensure that consultation takes place with the Tribal Directors prior to the release of an Environmental Assessment (EA) or draft Environmental Impact Statement (EIS) for public comment. The following procedures shall be used to facilitate such consultation.

1. Notice of EA or Draft EIS. The Deciding Officer shall send written notice of the proposed public release of an EA or draft EIS to the Tribal Directors. The notice shall include a copy of the EA or draft EIS. The parties shall arrange a time to meet and discuss the proposed draft, along with appropriate staff, prior to its release for public comment.

2. Consultation Regarding EA or Draft EIS.

A. The Deciding Officer and Tribal Director shall discuss all information relevant to the EA or draft EIS, including the preferred alternative, possible impacts to Treaty rights resources, and the possible differences between the parties as to the project or the analysis. The parties shall make every effort to communicate and fully share information, and to come to mutually beneficial resolutions of management and activity issues. Disagreements shall be addressed by reliance on principles of sound resource management and the protection of the Tribes' sovereign rights. If a dispute cannot be resolved at this level, the following procedure shall be used.

B. The Tribal Directors, Deciding Officers and the Forest Supervisor shall, within a reasonable amount of time, attempt to develop a mutually acceptable resolution to the impasse arising out of consultation in 2A. These consultations shall be undertaken in good faith. If the conflict cannot be mutually resolved at this level, either party may initiate the procedures set out in subsection (f) below.

(e) Consultation with Tribes Prior to Issuing Decision Notice.

Resource management decisions will be made to fulfill the Forest Service's Treaty and trust responsibilities and the Forest Service's obligation to manage the national forest consistent with existing law. The District Ranger and/or the Forest Supervisor, after receiving public comment on an EA or draft EIS, shall notify the Tribal Directors of their intention to sign a Decision Notice or Record of Decision for the project or proposed activity. The notice shall include a copy of the EA or proposed final EIS, and the proposed Decision Notice or Record of Decision. The parties shall arrange a time to meet and discuss the proposed draft, along with appropriate staff, prior to its being signed by

- (c) Notification to Tribes and Development of Protection Measures: The Forest Service shall immediately notify the Tribes in writing prior to proposing any action or policy that will or may impact a cultural resource within the Tribes' area of cultural concern. Notice shall go to the Tribal Chairman and the Director of the Tribes' Department of Culture and Heritage, with copies to the Tribal Council.
- (d) Cultural Resource Disturbance: In the event that an activity disturbs and/or uncovers a cultural resource not previously known, or inadvertently disturbs or uncovers a known cultural resource, or in the event that any cultural or burial object is observed through the action of water, weather or other cause beyond the control of the Forest Service, the Tribes' Department of Culture and Heritage shall be contacted as soon as possible for consultation. Any activity in the vicinity of the site or resource shall be halted as soon as possible. Activity can resume when site specific mitigation or protection measures are jointly developed, are agreed to by both parties, recognize Tribal Policy and are consistent with federal and state law.
- (e) Forest Service Permits and Tribal Consultation: The Forest Service will consult with the Tribes in accordance with the process established in section V of this MOA before issuing any permits to disturb, uncover or examine any Tribal cultural resources. The Forest Service will ensure that survey methodologies incorporate Tribal traditional knowledge; employ techniques that are least disturbing to cultural resources; directly involve Tribal members in survey activities; incorporate Tribal information and advice in permit provisions prior to issuing cultural resource permits; and perform all work in accordance with provisions in the Native American Graves Protection and Repatriation Act, National Historic Preservation Act and other historic preservation laws and policies. Consultations shall be undertaken in good faith and directed toward the development of mutually acceptable resolutions.

VII. FIREWOOD GATHERING

- (a) This section addresses gathering firewood and other dead material on the lands of the former reservation as needed by the Klamath Tribes for their subsistence purposes. Tribal members may gather firewood and other dead material anywhere within the 1954 reservation boundaries on a year round basis, pursuant to the following provisions.
- (b) The Klamath Tribes, as a sovereign nation exercising jurisdiction over its tribal members, will develop and enforce ordinances/regulations that govern the gathering of firewood and other dead material by Tribal members. The regulations will integrate the Klamath Tribes' stewardship values by providing for the conservation of fish, wildlife, plants, soil, and water. These conservation regulations may require seasonal restrictions.

The Tribes will consult with the Forest Service on the development of such ordinances/regulations. The Forest Service will submit information on conservation issues to the Tribes for use in the development of such ordinances. Prior to final adoption of the ordinance/regulation, the Tribes will provide a copy of the proposed

trees to build traditional dugout canoes.

- (j) The Tribes will provide an annual report on firewood gathering activities by Tribal members.

VIII. CAMPING BY TRIBAL MEMBERS

- (a) This section addresses the establishment and maintenance of Klamath Tribal member camps on National Forest lands located within the 1954 boundaries of the Klamath Indian Reservation and in areas otherwise traditionally used by Tribal members.
- (b) Klamath Tribal members may set up camp on National Forest lands located within the boundaries of the former Klamath Indian reservation, and in those areas traditionally used by Tribal members, except as provided in Section (d) below, tribal Identification cards shall serve as the permit for such camping.
- (c) The Klamath Tribes, as a sovereign nation exercising jurisdiction over its tribal members, will develop and enforce the ordinances/regulations that govern camping by Tribal members. The ordinances/regulations will incorporate the Klamath Tribes' stewardship values by providing for the conservation of fish, wildlife, plants, soil, water, and proper sanitation, cleanliness, and appearance.

The Tribes will consult with the Forest Service on the development of such ordinances/regulations. The Forest Service will submit information on conservation issues to the Tribes for use in the development of such ordinances/regulations. Prior to the final adoption of such ordinances/regulations, the Tribes will provide a copy of the proposed ordinance/regulation to the Winema and Fremont Forest Supervisors and the Regional Forester. If the Forest Service has a conservation-based concern, it will notify the Tribes in Writing within 15 days of receipt of the proposed ordinance/regulation. The Forest Service and Tribal Representatives will meet to discuss and seek to resolve any issues.

The Forest Service and the Tribes will work in partnership to coordinate the development and dissemination of public information regarding Tribal camping.

- (d) Out of respect for the mutual commitment to a government-to-government relationship, the Klamath Tribes will ensure that Tribal member campsites shall not be established where they would interfere with an active Forest Service timber sale. The Klamath Indian Game Commission or the Klamath Tribal Government may close specific areas to Tribal camps for Tribal member safety, fire protection and/or wildlife purposes, pursuant to Tribal regulations. The Tribal Government and the Forest Service shall consult with each other in determining when to close specific areas as described in this section so that the closure will apply to all citizens, not just Tribal citizens.

XI. ROAD MANAGEMENT AND MOTOR VEHICLE CONTROL

- (a) The parties agree that road management and motor vehicle control are important to the conservation and management of natural resources and Tribal Treaty and trust resources, and to the exercise of Tribal Treaty rights within the Treaty rights area.
- (b) Road management (which includes planning, development, construction, maintenance, obliteration, and decommissioning of roads) is an integral part of overall forest management and therefore, the parties agree to prior consultation between the Tribes and the Forest Service.
- (c) The Kimball v. Callahan consent decree provides:

Motor Vehicle Control

It is agreed that the control of motor vehicle traffic in the former reservation area is important to the conservation and management of the fish and wildlife resources found thereon. It is therefore agreed that the Tribe will cooperate in the management of motorized vehicle use on the former reservation areas, and will be party to appropriate agreements restricting the use of motorized vehicles. The Tribe and the State shall adopt and enforce those regulations issued by the United States Forest Service or agreed to by other persons in control of land sufficient to effectuate such agreements pursuant to their respective authorities.

- (d) The parties will consult on the planning and development of road management activities within the area impacting the Tribes' Treaty rights in accordance with the process established in section V of this MOA, and of the motor vehicle use agreements referred to in the Kimball v. Callahan Consent Decree.

XII. USE OF AGREEMENT AS EVIDENCE OR LEGAL AUTHORITY

- (a) This MOA provides a basis for communication and consultation, and outlines the protocol for the respective entities to engage in the development and implementation of land and resource management plans, proposals and decisions. The MOA is the result of much discussion and compromise between the parties, and shall not be construed to reflect either party's position as to the parties' respective legal relations or obligations between the parties. Neither this MOA nor the procedures and protocols set out herein are to be construed as legal instruments for or as evidence of the fulfillment of either party's legal obligations under applicable law, including but not limited to the Klamath Treaty of 1864, the trust responsibility, the Kimball v. Callahan Consent Decree, or other applicable federal law.
- (b) This MOA shall not be construed to create or waive any right, claim or defense that would otherwise be available to either party under the Treaty, trust responsibility, the Kimball v. Callahan Consent Decree, or applicable laws of the United States.

EXHIBIT D

Permit #CHI84 OPERATING PLAN

1. The holder will take every action necessary to prevent hazardous material spills (ie. gasoline, diesel, oil, antifreeze, etc.). Holder will notify the District Ranger in charge (Chemult and/or Chiloquin) of any hazardous material spills within 24 hours of spill.

Chemult District Ranger: Fred Wahl, 541-891-3903

Chiloquin District Ranger: Mike Lawrence, 541-788-3428

2. The holder will comply with Public Use Restriction Orders as issued by the Fremont - Winema National Forests. These orders may restrict off road vehicle use, camp fire use, smoking, welding, and similar uses. It is the holder's responsibility to be aware of and comply with all Public Use Restriction Orders. For information regarding an order, the holder should call the Chemult or Chiloquin Ranger District offices.

Chemult District Office: 541-365-7001

Chiloquin District Office: 541-783-4001