

**Co-Stewardship Agreement Between
The White Earth Band of Minnesota Chippewa Tribe
And
The U.S. Fish and Wildlife Service
For Tamarac National Wildlife Refuge**

Article 1: Preamble

The United States Fish and Wildlife Service (FWS) and the White Earth Band of Minnesota Chippewa Tribe (White Earth Nation “WEN”), herein collectively referred to as the Parties, entered a Memorandum of Agreement (MOA) concerning the Tamarac National Wildlife Refuge (Refuge) on June 4, 2024. The MOA contemplated the Parties entering into future agreements regarding co-stewardship in accordance with Joint Secretarial Order No. 3403. Parties immediately began discussions for co-stewardship after the signing the MOA. The following Agreement is a result of those discussions.

Article 2: Purpose

The Parties seek to clarify timely and impactful coordination efforts with respect to natural resources management activities and incorporating WEN cultural perspective on the Refuge. Through this Co-Stewardship Agreement (Agreement), the Parties will work collaboratively to address WEN’s goals and concerns related to co-stewardship as identified in the MOA and this Agreement, including the development of mechanisms for robust input from WEN through meaningful collaboration and coordination or as otherwise called for by this Agreement. This Agreement acts as an implementation of the MOA signed June 4, 2024. Further, the Parties will use information exchanged through this Agreement to discover additional co-stewardship opportunities and shall amend this Agreement as needed to incorporate those opportunities.

Article 3: Understanding and Objectives of the Parties

- a. Climate change and Indigenous Knowledge (IK) will be included to the greatest extent practicable throughout each of the commitments provided in Article 5 of this Agreement. FWS agrees to give great deference and due consideration to WEN’s expertise of IK in each of the below commitments between the Parties.
- b. At the outset of each commitment detailed in Article 5 of this Agreement, the Parties will engage in meaningful collaboration and coordination. At a minimum, the Parties will share proposed planning actions, data as described below, and volunteer opportunities at quarterly meetings contemplated by the MOA signed June 4, 2024, or sooner where practical:
 - i. **Proposed planning actions.** The Parties will share proposed planning actions. Completion dates for proposed planning actions will be established and adhered to with sufficient time, at least 30 days, allowed for review and comment from both Parties.

- ii. **Data.** The Parties will share data gathered by either party relating to areas of mutual interest such as biological studies, water quality and quantity data, and public use and other natural resource management studies. Sensitive and confidential cultural data will be addressed in separate future agreement and methods will be used to protect such data consistent with applicable law. For clarification, sensitive cultural data and IK provided by WEN to FWS may be subject to disclosure pursuant to the Freedom of Information Act. Accordingly, WEN will consider how sensitive cultural data or IK is marked for ownership purposes and shared with FWS.
- iii. **Volunteer Opportunities.** Refuge FWS staff will provide information regarding volunteer opportunities to WEN, and give advance notification of volunteer recruitment events held at the Refuge whenever practicable.

Article 4: Collaboration and Coordination.

- a. As identified in Articles 3-5 of the June 4, 2024 MOA, FWS agrees to meaningful and robust collaboration and coordination on matters identified Article 5 below, as well as on matters otherwise required for FWS to meet its obligations to respect and promote the Federal government's government-to-government relationship with Tribes. In furtherance of its commitment to collaboration and coordination with, FWS acknowledges its duty under Executive Order 14112, to "promote partnerships with Tribal Nations, recognizing that they bring invaluable expertise on countless matters" including on "how to steward their ancestral homelands."
 - i. **Face-to-face Collaboration and Coordination.** The Parties agree that collaboration and coordination concerning the Refuge, whenever possible, shall be conducted in person and that all necessary decision-making officials, or their designees, and technical staff will be in attendance. Where face-to-face collaboration and coordination is not practicable, the Parties agree to facilitate a hybrid in-person and virtual meetings. As a preference of last resort, the Parties shall conduct collaboration and coordination virtually.
 - ii. **Government-to-Government Consultation with Other Federally Recognized Tribes.** Any necessary or requested government-to-government consultation by WEN or any other Federally-recognized Tribes remains the responsibility of the FWS.

Article 5: Commitments of the Parties

- a. **Conservation Planning.**
 - Early Tribal Collaboration and Coordination.** The FWS commits to collaborate and coordinate with the WEN's Division of Natural Resources (WEDNR) at the beginning of the process of developing, amending, revising, and updating planning documents and tools related to the Refuge biological program, public use and visitor services, private lands programs, and natural resource management. The FWS commits to collaborate and coordinate with the WEDNR as soon as practicable on requests for appropriate use determinations and compatibility determinations, and

special use permits concerning, commercial timber harvesting, research activities, large groups, guided tours and prior to engaging in public scoping.

- i. Planning Documents.** Planning documents that involve early Tribal collaboration and coordination are identified in the June 4, 2024, MOA signed. Additional efforts expected during the course of this Agreement include but are not limited to revising the Comprehensive Conservation Plan or equivalent; compatibility determinations for new and existing uses; and new plans as developed.
 - ii. Tribal Participation as NEPA Cooperating Agency.** Whenever FWS proposes a major federal action subject to the National Environmental Policy Act (NEPA) that requires an Environmental Assessment (EA) or Environmental Impact Statement (EIS) and which may affect WEN, FWS will invite WEN to participate as a “Cooperating Agency” pursuant to 42 U.S.C. §§ 4331(a) and 4332(a). Examples of federal actions that may affect WEN include, but are not limited to, changes to hunting and fishing regulations, habitat restoration and improvement projects, and Comprehensive Conservation Planning. Consistent with 40 C.F.R. § 1501.8, the FWS will send a written request to WEDNR’s director at the earliest practicable time, but no less than three weeks, to allow WEN to respond to the invitation. If WEN accepts the Cooperating Agency invitation, the FWS will afford WEN the opportunity to participate in the scoping process and to review and comment on the administrative draft EA or EIS, as applicable, at least three weeks in advance of any public comment period. WEN will provide analysis and information on IK, the relationship between cultural integrity and natural resource management, as well as other areas of expertise of the WEN.
- b. Natural Resource Management.**

 - i. Traditional Tribal Resource Uses.** WEN will present traditional Tribal uses not currently occurring or regulated at the Refuge for consideration by FWS. For clarification, the Refuge retains all decision-making authority to determine whether a particular use is consistent with the Refuge’s respective management plans.
 - ii. Best Management Practices.** When the Refuge determines that a traditional Tribal use can be regulated in a manner consistent with the Refuge’s respective management plans, the Parties will collaborate and coordinate on best management practices (BMPs) for each traditional Tribal use, and work in good faith to monitor results, and adapt BMPs to new data and changing impacts on the ground.
 - iii. Collaboration on Natural Resources Data.** Both Parties commit to sharing data related to natural resource management, biological studies, forestry, and public use. Water quality and quantity data is of particular importance and an effort will be made to compare data sets and determine how they can be used to inform management strategies on and near the Refuge.

- iv. **Invasive Species.** The Parties commit to collaborate and coordinate to identify and develop appropriate responses to invasive species when discovered on or near the Refuge.
- v. **Emergencies and Unusual Events.** Response to emergencies and other unusual events affecting natural resources on the Refuge will be coordinated and communicated to WEDNR as expeditiously as possible. Emergencies and unusual events could include but are not limited to floods, windstorms, tornadoes, vehicle accidents, and wildfires. Both Parties may assist or cooperate in the emergency response as determined by each Party's resource availability and policy. The Parties will contact the following individuals/positions in case of an emergency:

White Earth Nation Police Department Dispatch
218-983-3285 Ext. 1252
Station One: (218) 983-3201
Station Two: (218) 983-3281
35500 Eagle View Rd
Ogema, MN 56569

Tamarac National Wildlife Refuge
Attn: Refuge Manager
35704 County Highway 26
Rochert, MN 56578
Phone: (218) 849-9868

c. Natural Resource Interpretation and Education.

- i. **Interpretation and Signage.** The Refuge will collaborate and coordinate with WEDNR regarding natural resource interpretation intended for the visiting public prior to implementing any changes to existing or new interpretive exhibits and signs. Development of messages and materials presented to the public through interpretive exhibits and signs will incorporate IK and culturally significant themes developed in coordinate with personnel identified by WEDNR prior to public presentation.
- ii. **Environmental Education.** Environmental education curriculums will include IK components developed through collaboration and coordination with WEDNR. Coordination regarding participation in environmental education programs from WEN interested schools will continue to be a priority.

d. Volunteer Opportunities.

- i. Volunteer opportunities include but are not limited to environmental education programs, visitor center operations, facilities and grounds maintenance, wildlife surveys, wildlife research, invasive species control, and trail mowing.
- ii. The Parties will share and identify additional volunteer opportunities, including, but not limited to, volunteer activities that permit members of the public to learn more about WEN and its stewardship goals.

- iii. Refuge staff will work with a WEN point of contact regarding identification of interested Tribal members and how best to provide them information regarding volunteer opportunities.
- iv. Information regarding additional volunteer opportunities with conservation partners will also be provided when available.

Article 6: General Provisions

- a. **Dispute Resolution.** The Parties agree they will endeavor to settle any dispute relating to this Agreement in good faith through direct discussions between the Parties with their choice of communication by written correspondence, e-mail, telephone conferences, video calls, or face-to-face meetings at all levels for a mutually agreeable resolution. For any dispute relating to this Agreement that cannot be resolved through good faith direct discussions, the Parties agree to jointly prepare a written summary of the dispute that will be provided to the USFWS Regional Director and the Tribal Chairperson, who will make a good faith effort to meet and resolve the dispute within fifteen (15) working days.
- b. **Liability Statement.** WEN declares there is no liability on the part of the Band, its agencies, or employees, for damages that may occur as a result of reliance upon or conformance with this Agreement. The participation of each party to this Agreement in activities conducted pursuant to this Agreement is not intended to place either party or its representatives in a position of incurring tort liability arising from an action of the other party. Each party is responsible for any injury or property damage to third parties caused by negligence of its own employees acting within the scope of their employment/official duty subject to such limitation as may be prescribed by applicable laws. Specifically, tort liability arising from negligent or wrongful acts or omissions of USFWS employees acting within the scope of employment shall be adjudicated pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671 et seq. (FTCA), the Federal Employees Compensation Act, U.S.C. §§ 8101 et seq., or such other federal legal authority as may be pertinent. The Parties agree that in the performance of this Agreement, employees or agents of each respective party are not to be considered employees of the other party or parties. For clarity, FTCA coverage is not extended to WEN or WEN employees under this Agreement. Nothing in this Agreement affects or changes the application of the FTCA to WEN or WEN employees that are engaged in carrying out functions authorized in or under a self-determination contract pursuant to the Indian Self-Determination and Education Assistance Act. *See* 25 U.S.C. §§ 5301 et seq.
- c. **Authorized Representatives**
 - i. **Authorized Representatives.** WEN designates the WEDNR director, with support from WEDNR water, fisheries, wild rice, wildlife, and forestry managers, as the authorized representative who shall be responsible for collaboratively administering the activities conducted under this Agreement. Contact information for WEDNR is:

White Earth Department of Natural Resources
102 3rd Street NE
Mahnomen, MN 56557

Phone: 218-935-2488

- ii. Authorized Representative. The FWS designates the Refuge Manager as the authorized representative who shall be responsible for collaboratively administering the activities conducted under this Agreement. Contact information for the Refuge Manager is:

Tamarac National Wildlife Refuge
35704 County Highway 26
Rochert, MN 56578
Phone: 218-844-1752

- d. **Statement of No Financial Obligation.** Signature of this Agreement does not constitute a financial obligation on the part of the FWS or the WEN. Each party is to use and manage its own funds in carrying out the purposes of this Agreement. Transfer of funds or items of value is not authorized under this agreement. Any transfer of fiscal resources requires a separate agreement developed and signed by both Parties. The Parties agree to implement the provisions of this Agreement to the extent personnel are available and budgets allow. The Parties may, of their own volition, coordinate with each other on potential grant and other funding opportunities as they deem appropriate in writing. Parties will coordinate on funding opportunities related to the co-stewardship of environmental and cultural educational and interpretation. Nothing in this Agreement is intended to supersede any laws, regulations or directives by which the Parties must legally abide.
- e. **Sovereignty Statement and Preservation of Jurisdiction.** Nothing in this Agreement shall be construed as a grant or waiver of jurisdiction by either of the Parties. This Agreement is not intended to alter the existing authority, rights or claims of any party. Acceptance or signing of this Agreement shall not in any respect constitute a determination as to the merits of any allegation or contention whether legal or factual by either party in any proceeding now or in the future. The Parties' participation does not constitute a waiver of either Party's sovereign immunity.
- f. **Limitations of Commitment.** This Agreement and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this Agreement shall be expended in accordance with the terms and in the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. If fiscal resources are to transfer between the Parties, a separate agreement must be developed and signed by both Parties. Notwithstanding any provision in this Agreement, this Agreement does not purport to delegate any inherently federal functions, management decisions or duties, including, but not limited to, inherently federal functions identified at 7.503 of the Federal Acquisition Regulations, OMB Circular A-76, or decisions committed to federal agency discretion by law.
- g. **Disclaimers of Government Endorsement.** WEN will not publicize or circulate materials (such as advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications) suggesting, expressly or

implicitly, that the United States of America, FWS, or any government employee endorses any business, brands, goods, or services.

- h. Scope and Entire Agreement.** This Agreement and the MOA represent the entire Agreement between the WEN and FWS concerning the terms contained herein. Cultural resources management and data sovereignty will be addressed in a later agreement.
- i. Termination.** This Agreement may be terminated by either party upon thirty (30) days written notice to other party delivered to the contact(s) identified in Article 6.C. Notice of termination must contain information regarding reason for termination and give the other party an opportunity to rectify.
- j. Effective Date and Duration.** This agreement shall be in effect upon the date of signature by the Parties and shall continue indefinitely until otherwise modified by the Parties.

For the White Earth Band of the Minnesota Chippewa Tribe per authorized Tribal Council Resolution Number 001-24-071:



Michael Fairbanks
Chairman
White Earth Band of the Minnesota Chippewa Tribe

10-1-24
Date

For the U.S. Fish and Wildlife Service:



Will Meeks
Regional Director, Midwest Region
U.S. Fish and Wildlife Service

10/1/24
Date