

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 07-C-316

MENOMINEE TRIBAL ENTERPRISES,
the principal business arm of the Menominee Indian
Tribe of Wisconsin, MARSHALL PECORE, and
CONRAD WANIGER,

Defendants.

**UNITED STATES' RESPONSE TO DEFENDANT MENOMINEE TRIBAL
ENTERPRISES' TWELFTH SET OF REQUEST FOR PRODUCTION OF
DOCUMENTS**

The United States serves these responses to defendant Menominee Tribal Enterprises' ("MTE") Twelfth Set of Request for Production of Documents, served upon the United States on February 21, 2008, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure.

Introductory Statement and General Objections

The Introductory Statement and General Objections set forth in the United States' Responses to defendant MTE's Interrogatories (Sets 1-3) and Requests for Production of Documents (Sets 1-4) are incorporated by reference as if fully set forth below.

Responses and Objections to Interrogatory Requests

REQUEST NO. 1: *The Culvert Inspection Handbook referenced in Michael Berlin's Trip Report dated November 11, 2005, including, but not limited to, the version of the Culvert Inspection Handbook that was in effect in fiscal years 2001 and 2002.*

A copy of the Culvert Inspection Handbook is attached. See Bates Nos. USA0019352 – 19573.

REQUEST NO. 2: *Each attachment referenced in David Congos' Memorandum to Marshall Pecore dated May 16, 2001.*

See BIAK Box 12 (marked in the box with Green sheet #1).

REQUEST NO. 3: *Each attachment referenced in David Congos' Memorandum to Marshall Pecore, Conrad Waniger, and Jacci Pubanz dated June 13, 2001.*

See BIAK Box 12 (Green sheet #2).

REQUEST NO. 4: *The final version of the draft Hazardous Fuel Reduction Operations Sub-Activity Program Implementation Procedures Guide (Revised April 2000).*

The final version of this Guide, which is also publically available, is attached as Bates Nos. USA0019574 – 19623.

REQUEST NO. 5: *The attachment (identified as Stump.wpd) to Jay West's email to David Congos dated February 21, 2001.*

The United States objects to this document request as irrelevant to any cognizable issue in the case. Nevertheless, the attachment to this email may be found at USA0014941 – 14942, produced previously. Attachments 1-5 to the Jay West email attachment appear to include the following documents, produced previously: USA0013132 – 33, USA0013136 – 40, and USA0013112.

REQUEST NO. 6: *All documents that authorize or purport to authorize David Congos to use the title "Menominee Trust Forester" in the performance of his duties as a forester while he was stationed at the Menominee Indian Reservation.*

The United States objects to this document request as irrelevant to any cognizable issue in the case.

REQUEST NO. 7: *All documents related to David Congos' appointment as "Contracting Officer's Technical Representative" for any Public Law 93-638 contract for Forest Management.*

The United States objects to this document request as irrelevant to any cognizable issue in the case. Nevertheless, documents referring to Mr. Congos' role as a COTR may be found at BIAF Box 2 (Green Sheet # 4), BIAK Box 4 (Green Sheet #1), and BIAK Box 9 (Green Sheet # 2 and 3).

REQUEST NO. 8: *All documents related to the policies and procedures used or relied upon by the BIA's Midwest Regional Office to determine whether to pay an invoice for services provided under any Hazardous Fuels Reduction program administered by the BIA's Midwest Regional Office for fiscal years 1999, 2000, 2001, and 2002.*

All documents related to the BIA's invoicing policies and procedures would be contained in the BIA's records, which have been produced for inspection. No formal procedures

existed prior to February 2002, beyond the requirements of federal law, regulations, and all applicable agreements and project proposals. The Forestry Invoice Review and Approval Procedures effective in February 2002, was previously produced as Bates Nos. USA0016419 – 16423.

REQUEST NO. 9: *All documents related to the federal requirements applicable to the reporting of accomplishments under the Hazardous Fuels Reduction program that BIA'S Midwest Regional Office administered for fiscal years 1999, 2000, 2001, and 2002.*

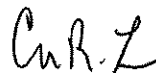
The United States objects to this document request on the grounds of vagueness. However, see the United States' response to Defendant Pecore and Waniger's Document Request No. 10, as it relates to BIA Hazardous Fuels reporting.

REQUEST NO. 10: *The notebook containing documents compiled by David Congos that purportedly track the need for a new harvest schedule to address an alleged backlog in cutting that is referred to in Jay West's Memorandum to the Self-Determination Specialist dated November 5, 2004.*

See BIAK box 10 (Green Sheet # 1).

Respectfully submitted,

STEVEN M. BISKUPIC
United States Attorney



CHRIS R. LARSEN
Assistant United States Attorney
(United States' Responses)

Dated: 3-20-08