



NATIONAL ASSOCIATION OF TRIBAL HISTORIC PRESERVATION OFFICERS  
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## U.S. Senate Subcommittee on National Parks

### Hearing on Issues Affecting Management of Archaeological, Cultural and Historic Resources at Mesa Verde National Park and Other Units of the National Park System

Testimony of

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Chairman

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Good morning, Chairman Udall.

My name is Reno Franklin and I am the chairman of the National Association of Tribal Historic Preservation Officers (NATHPO) that is based in Washington, DC, and which has members throughout the lower 48 states. I am a Kashia Pomo from Coastal Northern California and am also the interim chairman of my tribe, the Stewart's Point Rancheria. On behalf of NATHPO, we thank you for the opportunity to participate in this hearing on cultural resource issues in Mesa Verde National Park and other units of the National Park system.

Indian tribes have been preserving and protecting their cultures for thousands of years, yet, the last 150 years have been some of the most devastating to Native people. Historic and misguided efforts by the Federal government to remove traditional Native cultures, prohibit the use of Native languages, and stop the practice of traditional healing ways, have left a wide swath of disruption from which most tribal communities have yet to recover. Traditional Native societies have been attacked and western governing models inserted with the end result of new, historic levels of unemployment and poor health indicators. It has been a long fight for Native people to remain true to themselves and their traditions and heritage and I am proud to be one of 124 Tribal Historic Preservation Officers in the country who are committed to preserving, protecting, and rejuvenating our respective cultures in agreement and partnership with the National Park Service.

We welcome the opportunity to share our perspectives as well as provide helpful examples and suggestions for the Committee's consideration on how we can better preserve and protect tribal cultural resources. Our message is simple: Indian country needs to be at the table when issues affecting our ways of life are being considered and our voice needs to be heard. Should this be truly achieved, the National Park Service will have more fully

fulfilled its core mission, will more accurately and vibrantly reflect the cultures of Native America and in return we will receive a boost in efforts to maintain our identities.

## **The National Association of Tribal Historic Preservation Officers**

NATHPO is a national not-for-profit membership association of tribal governments that are committed to preserving, rejuvenating, and improving the status of tribal cultures and cultural practices by supporting Native languages, arts, dances, music, oral traditions, cultural properties, tribal museums and cultural centers, and tribal libraries. NATHPO assists tribal communities to protect their cultural properties, whether they are naturally occurring in the landscape or are manmade structures. In addition to members who serve as the Tribal Historic Preservation Officer (THPO) for their respective tribe, our membership includes many other tribal government officials who support our mission and goals. NATHPO provides technical assistance, training, timely information, original research, and convenes an annual national meeting of tribal representatives, preservation experts, and federal agency officials.

In 1998, the initial cohort of 12 officially recognized Tribal Historic Preservation Officers (THPOs) created NATHPO. In 2011, there are now 124 officially recognized THPOs whose tribal governments are responsible for managing over 50 million acres spanning 28 states. In addition to convening training workshops and national meetings, NATHPO provides technical assistance and conducts original research. Examples of completed research projects include:

- *Tribal Cultural Landscapes* (in final editing 2011)
- *Federal Agency Implementation of the Native American Graves Protection and Repatriation Act* (2008)
- *Tribal Consultation: Best Practices in Historic Preservation* (2005)
- *Report of the NATHPO Tribal Tourism Toolkit Project: Cultural and Heritage Tourism in Indian Country* (2005)
- *A New Beginning for Equity and Understanding – National Parks and Traditionally Associated American Indian Tribes, Report of the Pacific West Region Summit of National Parks-Tribes-Conservation Organizations* (2003)

My testimony is organized into three sections:

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## **TRIBAL SPECIFIC ISSUES**

### ***a. Tribal Historic Preservation Officer Program (THPO)***

In recognition and support of Indian Self-Determination and tribal sovereignty, the 1992 amendments to the National Historic Preservation Act, P.L. 102-575 (16 U.S.C. § 470) (“the Act”), enhanced the role of Indian tribes in the national preservation program authorized by the Act and provided for greater protection of places of cultural significance to Indians and Native Hawaiian organizations. Toward that end, the 1992 amendments authorized the creation of a Tribal Historic Preservation Officer (“THPO”) program funded through the National Park Service, Historic Preservation Fund (“Tribal”<sup>1</sup> line item).

THPOs have the responsibilities of State Historic Preservation Officers (“SHPOs”) on tribal lands and advise and work with state and federal agencies on the management of tribal historic properties, as authorized under Section 101(d)(2) of the Act. As a policy matter, the establishment of THPOs has been an overwhelming success, allowing THPOs to work closely with federal agencies to assist them in complying with the Act on tribal lands, and at the same time allowing Tribes who have THPOs to develop the expertise to efficiently protect cultural and sacred resources that are vitally important to their identity as American Indians.

At the local, tribal level, an efficient and well-working THPO program has been shown to be of great benefit to federal agencies. THPOs are not just another “feel good program,” rather they perform the important role of expediting all federal undertakings, including planning and construction of Indian Health Service clinics, tribal schools, water treatment plants, roads, energy development, and housing construction. Without a THPO in place, and without the federal funds to support their work – akin to that performed for National Environmental Policy Act (NEPA) compliance – many of these important development projects are delayed until the National Historic Preservation Act (NHPA) requirements are met, sometimes at great cost to all concerned parties.

THPOs also preserve and rejuvenate the unique cultural traditions and practices of their tribal communities. In order to fully understand what the THPO programs are able to accomplish at the local level, here are a few examples of their work that goes beyond federal compliance:

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<sup>1</sup> It is important to note that the “Tribal” line item under the Historic Preservation Fund includes both non-competitive THPO funding and funding for a competitive tribal grant program. The entire “Tribal” line item does not go to THPOs, and NPS determines how much THPOs and the competitive grant program will get each year.

- All THPOs believe that their work is an active **expression of tribal sovereignty** as they assume the state historic preservation responsibilities for their respective tribal lands.
- THPOs have worked with hundreds of local **Tribal elders** for history interviews. For example, the Spokane THPO was able to purchase audio recording equipment to assist in preserving the knowledge and experiences of their tribal elders. As for almost all tribal languages, their native language is shared verbally and is not in a written format.
- THPOs actively work to **preserve and protect historic structures**, including historic Bureau of Indian Affairs schools. For example, the White Mountain Apache Tribe is preserving and restoring the Fort Apache Historic District, and the Navajo Nation is restoring their Capitol Complex that was built in the 1930 by the Civilian Conservation Corps. The Yurok Tribe in California restored one of its satellite offices that was an original U.S. Forest Service Forestry Research Station. The Lac du Flambeau Tribe in Wisconsin has embarked on a long term effort to fully restore a tribal building that once served as an Indian boarding school.

#### Federal Support of the THPO Program:

In furtherance of the modern federal policy of tribal self-determination, tribes were authorized in the 1992 amendments to the NHPA to assume historic preservation activities and responsibilities with respect to tribal lands. In FY1996, tribal governments received the first congressional appropriations under this authorization for these activities via the **Historic Preservation Fund (“HPF”)**. By comparison, states have been authorized and have been receiving funding under the HPF for over 40 years for historic preservation activities on lands within respective state boundaries, but those funds were rarely if ever utilized for tribal historic preservation activities, particularly on tribal lands, prior to the 1992 delegation of authority to tribal governments.

Unfortunately, vitally important and successful THPO programs are severely threatened by lack of adequate funding to sustain them. THPOs received their first federal appropriations in FY1996. At that time, only 12 Tribes had established a THPO, with an average award of almost \$80,000. By FY2005, 43 Tribes had established THPOs (an increase of 350%), and the average award was down to approximately \$44,000 because appropriations increased only 38% percent from inception of the THPO program. New THPOs further the purposes of the Act, but also dilute the pool of available funds for all tribes. As funding for each respective THPO program shrinks, they are less able to assist federal agencies with their preservation compliance responsibilities and perform other important tribal duties and functions.

Since FY1996, the THPO programs have become very popular and successful with tribal governments. By FY2011, the THPO program has grown to 124 participating tribes. The NPS has stated that they expect 131 THPO programs to be funded in the FY2012 cycle.

In FY2001 -- the height of funding for state and tribal historic preservation -- SHPOs started with a \$385,000 base level support and THPOs with a \$52,000 base level for each THPO in existence at that time. The average SHPO award in FY2001 was \$850,209. The average THPO award was \$154,815. States undertake very important historic preservation activities with their funding and tribes are not seeking to dilute that funding, but seek increases to their important tribal historic preservation activities as well.

However, despite tribal government and NPS support, neither the annual Department of Interior budget requests nor congressional appropriations have increased the line item under HPF that supports tribal historic preservation in a way that keeps pace with increasing interest of tribes in taking responsibility for historic preservation duties under NHPA. Despite rapidly growing THPO programs and NPS support, funding remained relatively flat from FY2002 through FY2005, with a small but meaningful increase by Congress in FY2006 of \$795,000, which was preserved in the President's FY 2007 budget request.

One final illustration will indicate an important funding disparity: In FY2004, eight (8) U.S. territories received \$2.68 million in HPF funding, and all 43 THPOs together received \$2.25 million. Despite territories receiving more funding, the land base of the 8 Territories was 2.93 million acres (from CIA factbook) and the land base of those 43 THPO tribes was about 30.1 million acres.

### ***b. Preservation Creates Needed Jobs and Revitalizes Tribal Communities***

Heritage tourism in Indian country creates jobs, new businesses, builds community pride and can improve quality of life. THPOs play an important role in this planning process. Not only are tribal preservation programs asked for their input on important tourism endeavors, they are also involved in developing the important infrastructure necessary to bring visitors to tribal communities. THPO programs are thus an important part of a tribe's investment in local jobs, non-federal contributions, and long-term economic development. For example, the Nez Perce THPO has worked with soil and conservation districts for watershed restoration projects and livestock watering grants, reviewed Indian Health Service and U.S. Department of Agriculture projects needed for water and sewer improvements, and is involved in a myriad of transportation projects, including bridge replacements, repaving projects and bus station development.

### ***c. Gathering of Traditional Plant Materials on Public Lands***

The use of plants is integral to the continuance of Native American cultural traditions. For example, plants are used as food and medicine, as well as playing an important role in the creation of ceremonial regalia and basketry. Plants are also integral to manufacturing other aspects of traditional culture, such as clothing, housing, and transportation (boats/canoes). Because Native American cultures and their use of natural products have evolved on this continent over thousands of years, traditional harvesting practices tend to not destroy, but rather enhance, plant population vitality.

Past flawed policies of the Federal government has resulted in the serial reduction of tribal lands. Expansive territorial homelands were reduced to reservations, which were then -- through the allotment era -- fractionated into small parcels with remaining lands given or sold to non-Indians. One result of this land reduction is that the resulting smaller parcels that are available to Native Americans do not contain the myriad of plant resources necessary to represent the full spectrum of a culture. Non traditional uses by lands no longer controlled by Native Americans have become subjected to practices that either remove or damage or destroy traditional plant communities. One remaining source of plant materials may now be found on public lands that have not been subjected to intensive land disturbance. Inevitably Native gatherers have relied on these public lands and that reliance has, at times placed traditional gatherers in conflict with non-native commercial gatherers or immigrants from other continents that have adapted their own foreign gathering traditions to the plant biomes of America.

In recent years several federal agencies have developed policies that attempt to manage gathering activities of various user groups, including Native American gathering practices. The U.S. Forest Service and the Bureau of Land Management have such policies. It is anticipated that more land managing agencies will develop similar policies over the next decade. NATHPO is interested in advocating for such policies while being careful to ensure the recognition of the unique and fundamental relationships that Native Americans hold with the federal government and the sustainability and vitality of plant populations.

#### ***d. Assessment of Actual Needs and Challenges Facing Indian Country's Cultural Preservation***

As stated earlier, Native Americans have been engaged in cultural preservation for thousands of years. For purposes of entering into THPO agreements with the NPS, it has only been in the past 20 years that the federal government was able to commit to work with Native people in preserving, protecting, and rejuvenating their cultures and lifeways. In 1990, the National Park Service, under NPS Director James Ridenour, conducted the first-ever national study -- with funds appropriated by the U.S. Congress -- directing the NPS to "report on the funding needs for the management, research, interpretation, protection, and development of sites of historical significance on Indian lands." For the past 10 years, NATHPO has been seeking to work with the NPS and other federal agencies in developing and conducting another such effort that could serve as a blueprint for future work, knowledge, and understanding.

#### **NATHPO's Leadership Role to Provide Essential Training**

Notwithstanding the need to take the pulse of Indian country in terms of overall cultural preservation needs, NATHPO has listened to our member tribes and has been offering training opportunities since 1998. Our trainings assist Native Americans in building capacity, including supporting tribal leadership, members, and communities, and provides valuable knowledge and skills needed in today's world to preserve tribal history and traditions for the future.

NATHPO's efforts are designed to fill a long-standing void of training opportunities in Indian country. This training void was first identified and studied in 1996 and was summarized in the National Park Service-funded report, "Historic Preservation Training by and for Indian Tribes: Report of a Workshop on Tribal Needs & Priorities," that was contracted to the University of Nevada and Crow Canyon Archaeological Center. More than 20 years later, there is still a dearth of culturally appropriate training sessions.

NATHPO has also been offering training via our National Native Museum Training program that was created in 2006 and is designed to expand the knowledge and skills of museum leaders, increase the number of trained native museum professionals, and strengthen the overall capacity of tribal museums. The trainings support tribal museums and cultural centers to preserve cultural resources within tribal communities and serve as a hub for community members to learn and connect the past with the present. As an outgrowth and response to the Institute of Museum and Library Services study that was published in 2003, "*Tribal Museums in America*," the program fills an important niche for Native American professionals.

***e. Tribal Needs and Challenges – Native American Graves Protection and Repatriation Act (NAGPRA)***

The Native American Graves Protection and Repatriation Act was enacted into law on November 16, 1990 (P.L. 101-601) to address the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony. The Act assigned implementation responsibilities to the Secretary of the Interior, including making grants to assist museums, Indian tribes, and Native Hawaiian organizations in fulfilling their responsibilities and opportunities under the Act.

Many THPOs are also their tribe's "NAGPRA representative"<sup>2</sup> meaning they are part of the NAGPRA process and consult directly with museums and Federal agencies – including the NPS – which also administers the overall National NAGPRA Program. This tribal role requires detailed knowledge and skills prescribed by the act and the associated implementing regulations.

As a result of successful repatriation efforts, many Indian communities have brought their relatives and ancestors home. Solemn ceremonies honor the return of these individuals: an honor that each family and community in the United States conducts for their dead in their own way. Also, resumption of ceremonial life can begin anew with the return of sacred, ceremonial items. Each repatriation enables Native communities to employ the objects and items that have been handed down for countless generations in teaching their younger generations not only the important role that these sacred items have in their Native culture but also the pride, responsibility, and honor that are associated with the profound duty of caring for and conserving these precious resources.

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<sup>2</sup> Only one Federal law cites the need to name one tribal employee – the THPO – as the point of contact. There is no federally created "NAGPRA representative."

## Grants to Support Tribal NAGPRA Activities:

Section 10 of the Act authorizes the Interior Secretary to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting them in the repatriation of Native American cultural items and to make grants to museums to assist them in conducting inventories and preparing summaries. Over the years, the NPS NAGPRA program has been using funds from the grant program to cover some of their administrative costs with the result that fewer dollars are making it to the local, tribal level. The resources currently available to effect repatriations fall far short of what is needed. While the U.S. Congress and administration have appropriated funds to support the NPS NAGPRA program, overall, those funds have been inadequate to effectively address the mandates of the Act. Insufficient resources also prevent Native governments and organizations from maintaining a robust NAGPRA program effort needed to assure protection of a tribe's cultural resources. NAGPRA grants to Indian tribes and museums have decreased in the past five years, thus it is recommended that the program be substantially increased from its current level of \$2.4 million for grants in FY2008.

### Makah-NATHPO report, *Federal Agency Implementation of the Native American Graves Protection and Repatriation Act*

In August 2008, the Makah Indian Tribe and NATHPO released the report, which is the first ever study and analysis of how federal agencies are complying with the Act. One of the major findings is that the Federal government neither assures compliance with nor enforcement of the federal law enacted to protect American Indian remains and funerary objects and to reunite them with their families and homelands. In some instances, agencies have withheld or changed information about the objects or human remains in their possession, in blatant disregard of the law, according to the report. The report also stated that while some federal agencies have good working relationships with Native Americans, many Indian tribes say federal agencies rarely made good-faith efforts in contacting them about their collections. Tribes also have discovered that some of the federal agencies' official notices of cultural determinations have been withdrawn for unknown reasons and without consulting the tribes.

### Other report highlights:

- Study only examined federal agencies – not museums. However, it is estimated that museums hold at least eight times as many human remains and objects as federal agencies. Using the database of Culturally Unidentifiable Native American Inventories Pilot Database as an example of the split between Federal agencies and museums (as of 2007): There are 118,400 individual Native Americans listed and 828,641 associated funerary objects inventoried by 627 museums and agencies in the database. Federal agencies account for 13,785 of the overall 118,400 Native Americans and 66,407 of the overall 828,641 funerary objects.
- The NPS has failed to enforce the mandates of the Act on its fellow federal agencies and encouraged some federal agencies to withdraw the pending Notices of Inventory Completion. Overall, the NPS has withdrawn the most information from the entire repatriation process by unilaterally deciding to withdraw pending Notices of Inventory Completion (and thus, no repatriation process). The Act requires each museum and agency to provide notice directly to the culturally affiliated Indian tribe or Native Hawaiian organization. However, since 1995 these notices have



undergone increased scrutiny by the National Park Service, resulting in delays; an unknown number of these notices have been "withdrawn" by the National Park Service without adequate notification to the culturally affiliated Native American. Many of these pending Notices have been on hold in the NPS administrative office in Washington, DC, since 1995-96 (over 13 years).

The report also identifies these additional weaknesses for all Federal agencies:

- Federal staffing to implement the Act is insufficient.
- Federal officials responsible for implementing the Act are inadequately trained.
- Identifying the appropriate NAGPRA contact within each agency is extremely difficult, thus making the repatriation process even more burdensome for both tribes and federal agencies.
- There currently is no publicly available listing of which agencies and museums have submitted summaries and inventories.
- There currently is no standard for adequate consultation with Native Americans.
- Some agencies, like the Tennessee Valley Authority, knowingly unearthed Native American remains in the 1930s and simply listed the over 8,000 human remain as "culturally unidentifiable," thereby denying them a respectful burial by culturally affiliating the remains.
- Other agencies, like the Bureau of Land Management in the Spirit Cave case, have listed human remains as "culturally unidentifiable" despite the incredible amount of information to the contrary that was provided at great cost by the culturally affiliated Indian tribe.
- While the Department of the Interior can investigate allegations of failure to comply by museums, there is no similar mechanism to ensure that Federal agencies comply with the Act.
- Compliance with the Act varies from agency to agency. There needs to be some way to verify Federal compliance.

The Makah-NATHPO report also called for the Government Accountability Office (GAO) to investigate federal repatriation programs, which has now occurred. The GAO released the following two reports:

1. *Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act* (2010)
2. *Smithsonian Institution: Much Work Still Needed to Identify and Repatriate Indian Human Remains and Objects* (2011)

#### **f. Tribal Cultural Landscapes**

Over thousands of years, Native American cultures have lived in the area now known as the United States. Resident plants, animals, natural and geologic features, weather patterns, geographic features and Native American long term manipulation of these landscape attributes have all contributed to sense and identity that is characterized as a homeland. When a young native child asks his or her grandparents who they are, inevitably the answer is to point to the landscape and its contributing attributes and to provide instruction on appropriate native relations to these attributes.

The National Historic Preservation Act and various guidelines that inform regulations provide definitions for types of historic properties. One type of historic property, called a “cultural landscape” or “ethnographic landscape” was created in order to recognize the tendency of human cultures to evolve in holistic ways with landscapes broadly defined. The National Park Service Brief 36 provides guidance on how to document Cultural Landscapes. The National Register of Historic Places and the National Landmark registries are replete with examples of ranch landscapes, mining landscapes and urban garden landscapes such as New York’s Central Park or San Francisco’s Golden Gate Park. However, the registries lack adequate representation of Native American cultural landscapes. This lack of representation has resulted in lack of education about Native cultures and practices and consequently, it has reduced the protection of these special places.

Over the last several decades two new terms have been added to the historic preservation lexicon in order to bring more awareness to these broad places: Traditional Cultural Properties (see NPS Bulletin 38) and Sacred Sites (see American Indian Religious Freedom Act and Executive Order 13007: Federal Land Manager Sacred Site Protection). Unfortunately this additional awareness has also wrought confusion over what the similarities and differences of these three terms are and why three terms are needed when perhaps only one term will suffice. In very gross general terms Traditional Cultural Property literature puts less emphasis on objective documentation of the land and how specific cultures interact with the land and more emphasis on consulting with the cultural representatives who use and understand the land and demonstrating that a particular landscape feature remains vital to the continuance of traditional culture into current times. Sacred Site policy concerns under what conditions and manners federal land management agencies can allow or restrict access of the public or Native American practitioners to special places particularly for use in spiritual or religious purposes. It is the Cultural landscape concept and methods of documentation that most objectively provides understanding of what the landscape actually is by requiring identification of contributing elements or attributes. Understanding the components that go to make up a cultural landscape allows the most adequate means of developing Historic Property Treatment Plans that provide guidance for managing landscapes in keeping with traditions and in the face of an on-going federal undertaking.

NATHPO advocates and stands ready to assist the National Park Service in melding the three concepts into one coherent concept.

### ***g. Tribal Parks***

America’s National Park Service is a means of protecting our special places that includes educating and interpreting those special places’ natural and cultural qualities to the general public. As a result the National Park Service is a central participant in the Nation’s heritage and eco tourism industries. State, counties, and cities also operate park systems that promote enjoyment and educational opportunities within natural and open settings. Other countries have representative spaces set aside for similar purposes. The NPS maintains a solid relationship with Parks Canada and the National Park System of Mexico. Likewise, several Indian tribes have developed their own parks. Examples include the nearby Ute Mountain Ute Tribal Park, Navajo Tribal Parks, and the Agua Caliente Tribe’s

Palm Canyon Tribal Park. Other tribes are in the process of establishing tribal parks or preserves. For example the Yurok Tribe is in negotiations with a timber company, a city, Redwood National Park and other land holders to cobble together a Yurok Tribal Park System that protects and manages resources for traditional usage and public education and recreation.

While the Bureau of Indian Affairs may have some role in the establishment and partial funding of some of these tribal parks it is suggested that in recognition of tribal sovereignty the National Park Service establish a NPS program to assist in the establishment, operations and where appropriate (such as in areas where Tribal Parks and National Parks are in close proximity to one another) co-management of some or all of the involved parks, park related features and the resultant tourism opportunities.

## **TRIBAL-NATIONAL PARK SERVICE ISSUES**

### **a. NPS Regulations for Native Use of Traditional Plant Materials**

The NPS has fallen behind other federal land managers in allowing Native Americans to conduct traditional gathering of plant and mineral materials on the park lands that they now manage. This lapse, arguably inconsistent with the NPS mission, is partially due to regulations found at 36 CFR Part 2.1 that have prevented most tribal gathering except where either treaties explicitly allow gathering or specific Park enabling legislation allows gathering. Until these regulations are modified, some park law enforcement zealously prevent the Native American gathering while in other parks, Native gathering practices are ignored. Neither policy treats Native people in a respectful manner and may very well create tension within park units and externally between tribes and park service personnel. This tension has existed since the 1970's and there have been several attempts to revise the otherwise prohibitive "gathering regulations." Recently NPS Director Jarvis has put in motion a path to revising the regulations. An NPS spokesperson, recently speaking on behalf of NPS Director Jarvis stated, "Director Jarvis has deep experience working in parks where the ties between First Americans and the lands that are now parks have never been broken. He believes that maintaining those ties can nourish our landscapes while supporting native cultural traditions and providing opportunities for all Americans to better understand the history of America's first peoples."

The NPS wishes to revise the regulations to support long traditions of the original inhabitants and managers of National Park lands by allowing park superintendents to work in partnership and agreement with tribal governments to identify respective plant populations, methods and quantities of gathering and to establish mutually agreeable communication, access and monitoring protocols. The revisions make clear that this is to be done in recognition of tribal sovereignty, government to government relationship building and recognition of first nation/land manager statuses without opening parks to commercial gathering to all interested parties.

While there are some critical of these proposed revisions, NATHPO reminds all of those involved that many of the landscapes fastidiously managed by NPS units are the vestiges of long term Native American gathering and related land management practices (e.g., the pristine Bald Hills of Redwood National Park would not be bald had it not been for

thousands of years of Native American burning practices that were conducted in part to encourage plant re-growth to assure ample supply of materials vital to the continuance of Native material culture). Today, practices conducted by Redwood National Park staff mimics traditional burning mosaics and provides interpretation at its visitor centers concerning Native basket weaving and the role of fire in procuring good basketry materials. Yet traditional basket weavers cannot harvest the resultant plant growth. Should native plant gatherers go onto adjacent private lands they do so at risk to prosecution for trespass and theft and also expose themselves to harmful pesticides and herbicides. The NPS, in some instances, hold the best populations of plants for traditional practitioners.

NATHPO applauds Director Jarvis's leadership fueled by his strong sense for the bond between Native people, their landscapes and particularly the plants that result from and play a vital role in the continuance of America's oldest traditions. NATHPO is available to assist in educating the general public and particularly those critical of the revisions. Once revisions are made, NATHPO is also ready to assist in facilitating a NPS-Native gathering program that provides benefits to Native cultures and people, enrichment of the education of park visitors, and ultimately meaningful caretaking of the landscapes that NPS now manages.

#### **b. Co-management of National Park Units**

One significant method for addressing NATHPO's simple message of being included at the decision making table early and often is for NPS to embrace various co-management relationships with tribal governments, tribal parks and THPOs. While some are critical of the co-management concept or philosophy because they fear that tribal governments will usurp inherent federal decision making authorities, NATHPO suggests that the "co" of co-management can mean many different things, all with positive connotations. For example the "co" can be for "collaborative" relations or the co can be for "coordinated" operations. Co-management in whatever form of cooperative arrangement is simply a smart philosophy to pursue in these times of budget cuts, reduced staffing and resulting erosion of staff morale. NATHPO envisions a future where a tribal park superintendent shares office space with a National Park superintendent; a place where a critical animal population that does not recognize park or reservation boundaries is researched and managed seamlessly with coordinated budgets, staff and research agendas that avoid duplications or contrasting recommendations; or a time when a combined park employee/tribal young adult trail crew build a trail available to the general public that connects tribal lands with National Park service lands; or where a National Park superintendent and staff negotiate with a tribal government over an agreement to allow traditional gathering and interpretation of a particular plant. There are successful models that exist internationally (e.g. aboriginal roles in Australia National Parks/Preserves). There are several ongoing and emerging examples in the U.S. National Park Service such as Canyon De Chelly, Grand Portage Rapids, Pipestone National Park and the south unit of the Badlands. NATHPO urges that more relationships are explored that move beyond the realm and practice of "consultation" to the realm of true "co" stewardship of the lands and the plants, animals, other resources and people that are sustained by such lands regardless of ownership, boundaries or authorities.

### **c. Revising Bulletin 38**

An issue that is related, yet different from the tribal cultural landscapes discussion above, is the possible revision of NPS Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. The document was authored in 1990 and was last revised in 1998 and is currently being considered for further revisions. While NATHPO has heard from key Park Service staff that the Bulletin is in need of revisions and agrees that it should be, the process to move forward is still being developed. At least one NATHPO member tribe has requested that the NPS conduct consultations with Indian tribes prior to making revisions to assure that such changes will be embraced by tribes and that all aspects of the document are discussed. NATHPO also supports an effort to alleviate any confusion that may currently exist about the similarities and differences of Traditional Cultural Properties, Cultural and Ethnographic Landscapes and Sacred Sites. NATHPO has expressed to the National Park Service our interest in working together in this revision with the goal of improving the process so that Indian country may most effectively and expeditiously preserve and protect their respective historic properties.

### **d. NPS and Native Americans Working Together**

The discussion of the NPS working together with Native Americans also should include work force issues and opportunities. Notwithstanding the fact that many Indian tribes are located in close proximity to national park units, there are few structured efforts to encourage Native American participation, including employment. There is a need for a supported and prolonged effort to recruit and train Native American staff to work within the NPS, whether as rangers, or within the museums and visitor centers located throughout the country. Recruiting and supporting Native people in these fields has been slow and needs a influx of attention and resources to make viable career options. It has been encouraging to witness Native American involvement in park Interpretation and there are many park units that would benefit both Native Americans and the visitor experience to our nation's park units.

## **TRIBAL-FEDERAL GOVERNMENT ISSUE**

### **a. Tribal Consultation**

One process spans the entire Federal government spectrum: the need for open and transparent tribal consultation protocols. The Obama administration has tasked each federal agency with developing and sharing their tribal consultation process. Without such information, Indian country will continue to be in the dark when it comes to initial and final decision making on issues that directly affect Native peoples and their cultural traditions.

## Closing Statement

During the 2009 NATHPO membership discussion on priorities to be considered by the incoming administration, one issue that applied to many federal agencies was the need to **“enhance and promote the Native voice in all aspects of historic preservation at all levels of government.”** This sentiment continues to be true today. The THPO program has demonstrated its positive effect – both at the tribal level and at the federal level – yet its existence is threatened by the lack of federal support. Another important federal law enacted for the benefit of Indian country, the Native American Graves Protection and Repatriation Act, is beset with issues that impede full Native American participation. Yet, as described above, if Indian country was encouraged and supported to fully participate as partners with the National Park Service, significant challenges to tribal cultural preservation may be overcome. Perhaps in the next 20 years, Native American people will be allowed to gather plant materials from lands now managed by the NPS in a continuation of a practice that dates back thousands of years. Perhaps the next generation will be allowed to express their history from their own points of view and be a present part of the story for park visitors who want to hear the authentic story of tribal connections to natural and cultural resources. There are many challenges but our resolve and vision to be part of the story is encouraging for me and I hope that you will support us.

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