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ABSTRACT — Many places within Hualapai ancestral territory hold cultural and religious significance for tribal members and are considered eligible for the National Register of Historic Places. When such places may be affected by a federal undertaking, the tribe has a statutory right to be a consulting party in the review process under the National Historic Preservation Act (NHPA). From a tribal perspective, one shortcoming of that process is its emphasis on discreet sites rather than larger landscapes. The National Park Service and the Advisory Council on Historic Preservation have recently launched initiatives to make the NHPA process more responsive to such tribal concerns.

The Hualapai Tribe Department of Cultural Resources has developed an important tool for responding to consultation, including issues of landscape scale—a GIS-based Cultural Atlas. More than simply a digital map, the Atlas contains places of cultural and historical significance, which are linked to photos, archival documents, audio and video clips, and other relevant information that can be readily accessed. The Atlas has potential as a tool for education and cultural preservation, but is by no means a substitute for traditional, usually oral, means of cultural transmission.

INTRODUCTION

Each of the 567 federally recognized Indian tribes in the United States has its own stories about its relations with the federal government and the larger American society. Each tribe also has its stories about its relations with other tribes, as well as with creation, migration, landscape, and the natural world. Many of those stories reach back long before the United States became a country. Some of these stories describe essential attributes of tribal identity that present-day tribal citizens can draw upon in appreciating the challenges faced by ancestors and in considering the welfare of generations to come. Some of these stories are woven into the soul of America, even if not that many people have heard them, or even know of them.

The relationships that Indian tribes have with their culturally significant ancestral lands have gone through dramatic changes over time. Before contact with Europeans and Euro-Americans, tribal
“boundaries” were often fluid, shifting in response to relations with neighboring indigenous peoples and sometimes in response to changing environmental conditions. Colonization by European invaders led to displacement, population decimation, and the establishment of reservations. Many tribes managed to reserve a portion of their aboriginal territories for homelands, and many others were forced to move away from their homelands.

Whether or not subject to removal, most tribes lost access to substantial portions of their aboriginal territories. With lack of access came other challenges to the intergenerational transfer of the intimate knowledge that native people accumulated while inhabiting and adapting to their homelands over generations. The transfer of knowledge to younger generations was also complicated by federal Indian policy, administered mostly through the US Department of the Interior. The federal government sought different ends in different historical eras, oscillating between allowing tribes to carry on their separate existence and trying to force Indians to become assimilated, as individuals, into the mainstream of American society (Newton 2012, 17-108). Over the last half century, federal policy has supported tribal self-government and self-determination, though tribes still struggle with the legacies of earlier assimilationist policies and with limits on their access to and control over culturally important lands outside their reduced territorial jurisdiction.

In the American Southwest, there are vast expanses of relatively undeveloped and unoccupied lands owned by the federal government, and it may seem that these lands have always been empty, even desolate, places. Lands administered by the National Park Service (NPS) and Bureau of Land Management (BLM), both agencies within the Department of the Interior, and the Forest Service, an agency within the Department of Agriculture, may be prized for their natural, scenic, or wilderness characteristics, or for resources to be extracted or developed. From the perspective of Indian tribes with ancestral ties to federally managed lands, these lands were not and are not empty. In the present, these lands are filled with places that are memorialized in tribal oral traditions, in stories and songs, and that are often still visited for plant collecting and other various purposes. That these lands have been inhabited for a very long time is evident from the nearly ubiquitous archaeological sites, which can be read to tell some of the stories of past use of these landscapes. For the most part, tribes have never really relinquished or disregarded their connections to these places, and, as we move further into the twenty-first century, tribes have employed increasingly creative and proactive ways of maintaining these connections.

**TRIBAL HISTORIC PRESERVATION PROGRAMS**

Historic preservation provides a framework for telling some of the stories from tribal oral traditions, as these stories relate to particular places and landscapes. Over the past quarter century, Indian tribes have become increasingly involved in historic preservation. Tribal involvement has been greatly facilitated by the 1992 amendments to the National Historic Preservation Act (NHPA). Tribal involvement did not begin in 1992; rather, the provisions relating to tribes in the 1992 amendments were largely driven by the advocacy of tribes and intertribal organizations, and by a report to Congress prepared by the National Park Service after consultation with tribes (NPS 1990).

Section 106 of the NHPA requires that any federal agency that is considering a proposed federal or federally-assisted undertaking must take into account the effects of the undertaking on any property that is listed in or eligible for the National Register of Historic Places and afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment (54 U.S.C. § 306108). This requirement is implemented through regulations issued by the ACHP (36 C.F.R. part 800).

As amended in 1992, the NHPA provides that places holding religious and cultural importance for Indian tribes may be eligible for the National Register of Historic Places, and if such a historic property would be affected by a proposed undertaking, the federal agency has a statutory duty to consult with the concerned tribe in the Section 106 process (54 U.S.C. § 302706).

In the Section 106 process as set out in the regulations, the ACHP generally does not participate directly in the review of individual undertakings. Rather, the regulations provide for a prominent role to be performed by State Historic Preservation Officers (SHPOs). NHPA amendments enacted in 1992 authorize tribes to establish Tribal Historic Preservation Officers (THPOs) and, when approved by the Secretary of the Interior, assume duties for tribal lands that are performed elsewhere by the SHPO (54 U.S.C. § 302702). Approval by the Secretary is recorded in an agreement with NPS. As of December 2016, there are some 170 tribes that have established THPO programs. As THPO programs gain experience in the Section 106 process and other aspects of the NHPA, they have also become more knowledgeable about other
federal and state cultural resource laws and regulations, and they have become more engaged in the decision-making processes of federal and state agencies.

From a tribal perspective, places of religious and cultural importance matter because they are just that—sacred and culturally important. In the United States, however, the law does not offer protection for tribal sacred places just because they are sacred. The American Indian Religious Freedom Act (AIRFA) (42 U.S.C. § 1996) does proclaim that it is national policy to protect the freedom of Native American people to exercise their traditional religions, including access to sites, and Executive Order 13007, Indian Sacred Sites, directs each land-managing federal agency to “(1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites.” But neither AIRFA nor Executive Order 13007 gives rise to enforceable rights (Newton 2012, 968–971). That Indian tribes are increasingly using the procedural framework of historic preservation law to seek protection for places that hold religious and cultural importance is, to a great extent, a response to the lack of substantive legal rights.

THE HUALAPAI LANDSCAPE

The Hualapai Indian Reservation in northwestern Arizona occupies approximately one million acres bordering 108 miles of the Colorado River in the western Grand Canyon area. The Reservation is mostly high-desert country with some forested uplands and a number of side canyons adjoining the river corridor. Aboriginally, as a primarily hunting-and-gathering society that also engaged in small-scale farming, the Hualapai people formerly utilized about seven times more land area (Figure 1). The aboriginal territory recognized by the Indian Claims Commission as exclusively Hualapai is somewhat smaller than the area recognized by the Tribe.³

The Hualapai people regard their place of origin at a free-flowing spring that erupts from the rocks in a small canyon near the base of a mountain in southeastern Nevada known as Wikahmé, or Spirit Mountain (Watahomigie et al. 1981). This is acknowledged as the place of origin for all of the peoples who speak Yuman languages, of which the Hualapai are one such group. (The Hualapai often refer to themselves as one of the “Pai” tribes, rather than one of the “Yuman” tribes.) The people were led to the Colorado River, where they lived for a time and learned how to survive off the land. As their numbers grew, some people were led to live by the river while others were led to the deserts, canyons, and plateaus to the east. Eventually, further migrations occurred, resulting in the formation of many interrelated bands, as well as other discrete tribes (such as the Yavapai, Havasupai, and even non-Pai tribes). Bands often were tethered to springs, rivers, and cooler mountains in the often harsh desert environment, deriving their group names from the places that were their main home base (e.g., Haka’sa Pa’aa, for the Pine Springs People). The ancestral Hualapai bands were mobile, however, and moved their camps seasonally throughout a more or less prescribed territory to harvest available plant foods and hunt game, at times cooperating among bands and at other times splitting off into smaller groups as the resource base allowed.

Most of the Hualapai aboriginal land was usurped, mainly by ranching and mining interests, but not until the last part of the nineteenth century (McMillen 2007). Conflicts between non-Indians and Hualapais, including the murder of a tribal leader, led to intervention by the US Army and a period of warfare that ended in 1868. This was followed, in 1874, by the forcible relocation of a major part of the tribal population to the desert lowlands of the Colorado River Indian Reservation. After some eighteen months, the Hualapais were allowed to go home, and in 1883, their reservation was formally demarcated by executive order (US Senate 1936; McMillen 2007, 6–11).

In the early part of the twentieth century, railroad interests backed by politicians sought to reduce the size of the Reservation and take control of Peach Springs, one of the major reliable sources of water. The Tribe, represented by the United States, ultimately prevailed in a ruling by the Supreme Court that Indian occupancy of aboriginal tribal land is a matter of fact that is susceptible to proof.³ The Indian Claims Commission then adopted this principle, an event that has been described as when “ethnohistory began” (McMillen 2007, xv).

Over countless generations the Hualapai had become knowledgeable about a vast landscape populated by familiar landmarks, varied ecological zones and niches, places to obtain natural resources for food and tools, ancient settlement areas, and burial grounds. Many of these places are embodied in stories and songs. Mountain peaks in particular were regarded as places of power that were utilized by shamans for the purpose of communicating with spirits and sending out prayers. It should be no wonder, then, that many places that are now outside of their presently recognized territorial jurisdiction, and which fall within a multitude of administrative and jurisdictional
boundaries, remain of great concern to many Hualapai tribal members. It is not uncommon for tribal members to visit ancestral places off the reservation, just to “take care of them.” This may mean simply stopping to give a prayer, or to check for vandalism or pick up litter. Clearly, these places are still considered part of Hualapai territory. In deep and personal ways, such places were never really relinquished as a result of “conquest.”

**THE HUALAPAI DEPARTMENT OF CULTURAL RESOURCES**

The Hualapai Tribe was one of the first to establish an authorized THPO program, having entered into its agreement with NPS in 1996. In 1998, the Tribal Council enacted the Cultural Heritage Resources Ordinance (hereinafter Ordinance), which formally established the Hualapai Department of Cultural Resources (HDCR) and designated the director of HDCR as the THPO! The
THE NATIONAL REGISTER CRITERIA

The criteria for eligibility for the National Register are set out in regulations issued by NPS. The kinds of properties that may be listed in the National Register include districts, sites, buildings, structures, and objects. Such a property may be eligible for the National Register if it meets one or more of the criteria, that is, if it (A) is “associated with events that have made a significant contribution to the broad patterns of our history”; (B) is “associated with the lives of persons significant in our past”; (C) “embod[ies] the distinctive characteristics of a type, period, or method of construction, or . . . represent[s] the work of a master, or . . . possess[es] high artistic values, or . . . represent[s] a significant and distinguishable entity whose components may lack individual distinction”; or (D) has “yielded, or may be likely to yield, information important in prehistory or history” (36 C.F.R. § 60.4). NPS regulations also establish a process for determinations of eligibility for the National Register (36 C.F.R. Part 63). In practice, however, identification and evaluation often takes place within the Section 106 process, during the identification step (36 C.F.R. § 800.4).

The National Register has never been understood as reflecting only national values or importance at that scale, but rather also includes places of local and regional importance. This applies to any place that has local significance for people of any background. In cases of Native American places of significance, these criteria must be contextualized to reflect the perspectives of the
people who hold such places to be significant. For native people, significance may vary across a spectrum from general to specific, ranging from a sense of cultural identity grounded in general knowledge of ancestral territory and traditional cultural practices, to more specific aspects of culture and history such as culturally significant plant or mineral gathering areas, sacred geography memorialized in creation and migration stories and songs, rocky hill slopes where burials were known to have been placed, sites where significant historic events took place (such as battles with the US Army), or any number of kinds of places deemed important. There are no finite limitations, although a certain level of documentation is typically required to arrive at a determination of eligibility.

In the National Register criteria, some kinds of places, including religious properties and grave sites, are subject to “criteria considerations,” which operate as a presumption against the eligibility of such places unless some other factor applies to rebut the presumption. For places that are significant to Native people, these considerations can be troublesome. The considerations are grounded in the dominant American culture's worldview and do not correspond well to Native values. For example, a religious property may be eligible if derives its “primary significance from architectural or artistic distinction or historical importance” (36 C.F.R. § 60.4); from a Native perspective, the primary significance of a sacred place tends to be that it is sacred, though it may also be historically significant. The regulations containing the criteria of eligibility were promulgated several decades ago, before tribes had much involvement in historic preservation. Revisiting the criteria with a view to incorporating tribal perspectives may be in order.

MITIGATION OF ADVERSE EFFECTS

During the fifty years since the NHPA was enacted, the efforts of federal agencies to identify previously unknown historic properties, whether in planning for the management of public lands or in making decisions on undertakings, have tended to emphasize archaeological sites. There are likely a number of reasons for this. Archaeological sites are tangible and may be readily managed using time-tested mitigation approaches, such as avoidance or data recovery (i.e., excavation). The vast majority of archaeological sites that are determined to be eligible for the National Register have been so evaluated under Criterion D, which addresses their potential to yield information. If a site cannot be avoided or otherwise preserved in situ in the face of some undertaking, excavation commonly takes place, and the site (as a management concept) ceases to exist. While tribal consultation may take place, nonnative values take precedence in most cases. Archaeological sites may be acknowledged to be associated with or significant to extant tribes, but even when they are, in our experience land managers do not often give serious consideration to the possibility that tribes may value these sites for their information potential through methods other than excavation.

The attitude that previously unidentified archaeological sites can be mitigated through excavation is reflected in the common practice of putting off NHPA compliance until the review required by the National Environmental Policy Act (NEPA) is well underway. Particularly for projects with large footprints, agencies often approach NHPA compliance in a phased manner, negotiating a programmatic agreement that allows for a decision on the proposal before identifying all of the affected historic properties, much less resolving the adverse effects.

Another reason may be that agency land managers may feel comfortable with preservation decisions that favor archaeological excavation because they sense that archaeology has a place in the broader public's imagination. The information to be gained through excavation can be readily accessible to the interested layperson, and so such land management decisions serve the public interest. In contrast, the historic significance of a place from a tribal perspective, as embodied in stories and songs, is not readily accessible to the general public. While tribes may find that sites are relevant in “recovering” knowledge about their historical landscapes or as teaching resources to reinforce cultural knowledge to younger generations, benefits to the broader public may not be apparent. In addition, for some of the information from a tribe's oral tradition that may be divulged in the Section 106 process there may be a need to preserve confidentiality, for example, to avoid intrusions into religious practices or to reduce the risk of harm to a site. If such concerns exist, the information developed in the Section 106 process may not readily lend itself to public educational benefits.

IDENTIFYING HISTORIC PROPERTIES THAT MATTER TO TRIBES

Regardless of how the relative public benefit may be perceived by federal land managers, at the beginning of the Section 106 process they are required to make a
“reasonable and good faith effort to identify any Indian tribes or Native Hawaiian organizations that might attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties.” (36 C.F.R. § 800.3(f)(2)). At the step of identifying historic properties, the federal agency is required to seek information about potentially eligible properties from any such Indian tribe or Native Hawaiian organization (36 C.F.R. § 800.4(a)(4)). The identification step of the Section 106 process is particularly important because many places that hold religious and cultural significance for an Indian tribe may not have been identified and evaluated for National Register eligibility. Early identification is also important because fashioning acceptable mitigation for adverse impacts tends to present challenges. Such places tend to have ongoing importance. Unlike archaeological sites, mitigation by destruction (i.e., excavation and recordation) is not an acceptable solution.

TRADITIONAL CULTURAL PROPERTIES

For identifying places of importance to tribes, a guidance document issued by NPS that has proven to be particularly useful is National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties (hereinafter Bulletin 38). The term “traditional cultural property” (TCP) refers to a particular kind of historic property that is “eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community” (Parker and Thomas 1998, 1). It should be noted that the category of TCP is not intended to exclusively pertain to Indian tribes, and has often been applied to many other ethnic groups and communities with strong traditional foundations.

Bulletin 38 explains how a TCP may be eligible for the National Register under one or more of the four criteria. For example, the word “events” in Criterion A may be interpreted to include events that, according to tribal oral traditions, “may have occurred in a time before the creation of the world as we know it” (Parker and Thomas 1998, 13). Similarly, the word “persons” in Criterion B can refer not just to “persons whose tangible, human existence can be inferred on the basis of historical, ethnographic, or other research [but also] to ‘persons’ such as gods and demigods who feature in the traditions of a group” (Parker and Thomas 1998, 13). Just as archaeological sites may be eligible for the National Register under Criterion D for the information such sites may yield about history and prehistory, places that hold religious and cultural significance for tribes may be found eligible under Criterion D when appropriate research methods are used. Bulletin 38 suggests the methods of “ethnographic, archaeological, sociological, folkloric, or other studies” (Parker and Thomas 1998, 14).

In addition to guidance from NPS, the ACHP has also issued guidance documents, including Consultation with Indian Tribes in the Section 106 Review Process: A Handbook (hereinafter ACHP Handbook). The ACHP Handbook stresses that the term “traditional cultural property” is not used in the statute, but, rather, the factor that gives rise to the statutory right to be consulted is that the proposed undertaking might affect a historic property that holds “religious and cultural significance” for an Indian tribe (54 U.S.C. § 302706). In other words, a TCP is but one kind of historic property that holds religious and cultural significance, and a historic property need not be a TCP for a tribe to have the right to be consulted. Nevertheless, many places that are important to tribes can properly be designated TCPs, and as such, the term has come into rather widespread use.

Many, perhaps most, of the kinds of geographic areas included in the Hualapai Cultural Atlas may be considered TCPs that are eligible for the Hualapai Register. In addition, many of the sites in the separate archaeological site database may also be considered TCPs. For the Hualapai people (and many other tribes), the traces of past occupation and use comprise tangible evidence of their ancient way of life, migration stories, and connections to their ancestral cultural landscape. They are important as teaching resources for present and future generations. As such, they do not necessarily need to exhibit impressive architecture or even abundant or unique artifact assemblages to maintain significance for the Hualapai Register. In fact, given the tribe’s long history as a hunting and gathering society with relatively limited gardening and agriculture, if such criteria were essential for eligibility much of the archaeological record (and therefore tribal history) would be dismissed. Once again, localized context is the key perspective that must be applied.

Prior to about twenty years ago, at least in the American Southwest, TCPs were rarely given serious consideration in management decisions on nonreservation lands. Only in the past decade or so has this consideration accelerated to the point that attention to TCPs is now
commonplace, albeit with varying sincerity and commitment. This variability can be found across agencies and with regional differences that seem to reflect political leanings, economic forces, and sociocultural trends. The growth in attention to TCPs on the part of federal agencies has largely resulted from tribes becoming more proactively engaged in the Section 106 process. At least two factors have contributed to this phenomenon. First, the number of tribes achieving THPO status continues to increase, and tribes with THPO programs are more likely to be informed about undertakings on federal and state lands and are more likely to have staff to actively participate in review and consultation (although these tasks can become overwhelming financially and burdensome due to limited availability of personnel). Second, tribal governments have generally become more supportive of maintaining cultural resource programs, often aided by gaming or tourism-related revenues. In the best circumstances, tribes and local federal land management agency offices have proactively fostered constructive consultation practices and relationships.

**PRESERVATION AT THE LANDSCAPE SCALE**

The TCP concept has proven useful in providing recognition for places that tribes consider important, but in some ways this approach falls short. In many cases, it is not so much a particular place that matters but rather how that place fits within the landscape, how it connects to other important places, and what vistas can be taken in from within a place or when viewing it from a distance. In recognition of such concerns, the concept of Native American traditional cultural landscapes has found a place on the agenda of both ACHP and NPS. As discussed by ACHP:

> These large scale properties are often comprised of multiple, linked features that form a cohesive “landscape.” The recognition, understanding, and treatment of such places can be a struggle for the nontribal or non-Native Hawaiian participants in the Section 106 process, partly due to the lack of experience in addressing such places and partly due to the lack of guidance regarding these traditional cultural landscapes. (ACHP 2011)

One reason that treatment of landscapes “can be a struggle” may be that landscapes per se are not a kind of property that is explicitly eligible for the National Register. Landscapes may be encompassed by discrete historical districts that are determined to be Register eligible. The eligibility of landscapes may also be addressed through multiple property submissions which consider a number of properties that reflect one or more related historic themes (Lee and McClelland 1999).

The NPS initiative on Native American traditional cultural landscapes began with government-to-government consultation to consider the development of a new guidance document on the subject and the revision of Bulletin 38, or possibly the development of a single guidance document dealing with both subjects. NPS also published a request for comments on this initiative. The HDCR filed a lengthy comment letter in response to the NPS initiative.

While these federal agency landscape initiatives may be perceived by tribes as glimmers of hope, tribal staff and THPOs know from experience that using the Section 106 process to protect TCPs is challenging. Trying to protect whole landscapes is bound to be even harder.

Another federal initiative worth noting is a multiagency memorandum of understanding addressing protection of Indian sacred sites (hereinafter Sacred Sites MOU) (US Department of Defense 2012). Among the actions that the agencies “agree to work together to accomplish” is to establish management practices that could include “Federal-tribal partnerships in conducting landscape level cultural geography assessments.” (US Department of Defense 2012). In another recent development, the Department of Agriculture has released its *Report to the Secretary of Agriculture: USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites* (US Department of Agriculture 2012).

The challenges to tribal cultural resources departments are great, and whether recent federal initiatives lead to real changes in the behavior of federal agencies remains to be seen. From a tribal perspective, representatives of federal agencies, and state agencies, often seem to serve as brokers of sorts for development projects and resource extraction industries, especially on lands managed with an ostensible “multiple-use” mandate such as BLM lands and national forests. Managers of such multiple-use lands have allowed countless mines, oil and gas wells and pipelines, rock and gravel quarries, communications facilities, electricity transmission lines, and commercial forestry activities. Such facilities may scar the landscape for generations, although disruptions of traditional cultural landscapes can sometimes be avoided or limited if tribal consultation occurs early enough.

The new wave of proposed wind farms and solar facilities presents a similar set of challenges, in that these
projects may occupy tens of thousands of acres. Although such projects can produce electric power without carbon dioxide emissions and, as such, help to alleviate global warming, tribes may still find them objectionable where they would disrupt cultural landscapes. Whether such adverse effects can be mitigated by measures short of choosing a different location remains to be seen. In any case, early tribal consultation is essential. It should begin no later than the scoping step in the NEPA process.

**CONTRACTING WITH TRIBES**

One way for federal agencies to engage a tribe early in the planning process is to pay for the tribe’s help in identifying historic properties. As explained in the ACHP Handbook, it is perfectly appropriate for an agency or applicant to pay a tribe for providing “specific information and documentation regarding . . . individual sites, or . . . to request that a survey be conducted by the tribe. In doing so, the agency or applicant is essentially asking the tribe to fulfill the duties of the agency in a role similar to that of a consultant or contractor” (ACHP 2012, 12). The Sacred Sites MOU calls for the signatory agencies to identify “contracting mechanisms for obtaining tribal expertise” (US Department of Defense 2012, 3).

The Hualapai Cultural Atlas, which was initially supported through grants from NPS, is now sustained mainly through contract work, along with assorted grants. The HDCR has been fairly successful in obtaining funding (sometimes as a subcontractor) to conduct ethnohistorical and archaeological research. This approach has had positive results in that HDCR receives financial support for fieldwork and report preparation, which contrasts with typical Section 106 consultation, where there are considerable financial and staffing burdens on tribal cultural departments. In addition to providing better information for proposed undertakings, the contracting approach also helps in fashioning more appropriate mitigation measures to resolve potential adverse effects on TCPs.

The general approach in using the Cultural Atlas in these situations is to consider the footprint of the proposed undertaking (preferably as GIS data) and then establish buffers and viewsheds that may contain places of significance that have been previously documented. This becomes just the starting point, however, for additional research through interviews and field visits with tribal elders. Knowledge of genealogy and ancestral band connections helps identify particular tribal members who may have interests in certain areas. We have found that there is almost always a good likelihood that new places will be identified and additional knowledge about previously documented places will come to light. As a result of these studies, a more complete and nuanced picture of the cultural landscape may be achieved and considered during consultation.

In the experience of HDCR, such contracts present challenges as well as opportunities. One challenge arises when an applicant for federal agency approval retains the services of a tribal agency, either as a contractor or subcontractor. The standard form contracts used by such applicants typically treat ensuing reports as intellectual property purchased by the applicant, including field notes and intermediate work products. This is a potential problem in at least two ways. One is that the report may contain information that should be maintained with a measure of confidentiality. The other is that HDCR will likely have acquired more information than it includes in its reports to the consulting firm, and that information generally relates to the Tribe’s cultural heritage. In some cases, HDCR has dealt with this problem by negotiating contract provisions that recognize all the documentation generated by HDCR as tribal intellectual property, with the understanding that sufficient information will be disclosed to allow for informed management decisions. In support of this position, HDCR cites Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples, which provides that indigenous peoples “have the right to maintain, control, protect and develop their intellectual property over [their] cultural heritage, traditional knowledge and traditional cultural expressions” (United Nation 2007).

**CONCLUSION**

Approaches to considering and managing cultural resources at the landscape scale are currently evolving, as evidenced by the recent flourish of new and revised policies and guidance documents. Tribal cultural resource departments need better and more efficient tools to deal with these developments.

Originally conceived as a management tool for the Tribe’s THPO, the Cultural Atlas allows for efficient retrieval of information when federal agencies request consultation. As this initiative has continued, a cumulative augmentation of the Cultural Atlas has taken place. Its scope has evolved from a management tool into a tribal community archive and resource, and still the progress the HDCR has made in developing the Atlas seems like
only the beginning. It will undoubtedly be a project that can never be finished, as new sources of information are always being uncovered through archival research and through the participation of tribal elders and other knowledgeable individuals.

Like other Indian tribes, the Hualapai people face a host of challenges in maintaining and revitalizing their culture, and the Cultural Atlas is a profoundly important resource. While cultural survival is of primary importance to the Hualapai people, the larger society benefits as well. America is enriched by the survival, and by the flourishing, of each and every Indian tribe.

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REFERENCES


ENDNOTES


4 Tribal Council Resolution No. 1398 (Feb. 18, 2014).