

Executive Summary

Memorandum of Agreement Regarding Collections, Inadvertent Discovery, and Intentional Excavation of Native American Human Remains, Funerary Objects, Sacred Objects, and Objects Of Cultural Patrimony at Grand Canyon National Park, Arizona

The Grand Canyon National Park (PARK) entered into this comprehensive agreement for implementation of the Native American Graves Protection and Repatriation Act (NAGPRA) with ten tribes. Havasupai Tribe, Hopi Tribe, Kaibab Band of Paiute Indians, Las Vegas Paiute Tribe, Moapa Band of Paiute Indians, Navajo Nation, Paiute Indian Tribe of Utah, Pueblo of Zuni, San Juan Southern Paiute Tribe, and the Yavapai-Apache Nation.

The purpose of the agreement is to address land management activities within the PARK that may result in the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The goal is to protect Native American human remains and cultural items, and make sure they are treated with respect and dignity. This is done by establishing an effective process for carrying out the requirements of NAGPRA regarding consultation, determination of custody, and treatment and disposition of human remains and NAGPRA objects. The Agreement only applies to Federal land within the PARK.

The agreement was prepared by the PARK in consultation with the signatory tribes. This consultation included a series of meetings between PARK staff and individual tribes to discuss NAGPRA, seven days of consultation with tribal representatives during a river trip in the Grand Canyon in February of 2004, and an inter-tribal meeting held August 31, 2005 to review the language of the agreement and discuss its implementation.

The agreement will be used by PARK employees to guide them in implementing NAGPRA and by Tribes in reviewing the performance of the National Park Service in meeting its legal responsibilities. This executive summary provides an overview of the agreement. The PARK will implement this agreement using a government-to-government relationship.

One of the key concepts of NAGPRA is cultural affiliation, defined as a shared group identity that can be traced historically between members of a present-day tribe and a past identifiable group. When called for by the agreement, the PARK will determine cultural affiliation using a preponderance of evidence based on geography, kinship, biology, archaeology, anthropology, linguistics, folklore, oral tradition, and other relevant information or expert opinion.

The agreement sets out procedures for repatriation and disposition of NAGPRA items collected prior to the passage of NAGPRA. The PARK will repatriate NAGPRA items to lineal descendents or culturally affiliated tribes within 90 days of a written request. For culturally unidentifiable human remains and funerary objects collected prior to 1990, the PARK shall request authorization from the NAGPRA Review Committee for disposition to the signatory tribes.

The procedures for dealing with inadvertent discovery of human remains after 1990 require that the PARK employees or contractors cease the activity that exposed the remains, and notify

the park superintendent or designated park official. The superintendent or designated park official will then notify the signatory tribes and initiate consultation. Under the agreement, the PARK is authorized to secure and protect inadvertently discovered human remains by repositioning them within their burial site and covering them with fill material. Securing and protecting remains for this limited purpose does not constitute intentional excavation or removal for the purposes of NAGPRA, so the PARK will undertake this activity without determining cultural affiliation. The agreement thus authorizes the PARK to protect and rebury human remains in a timely manner acceptable to the signatory tribes.

When the PARK finds that a planned activity may result in the intentional excavation of human remains or other NAGPRA objects, the superintendent or a designated park official will consult with tribes. The agreement outlines procedures to treat human remains and cultural items with respect, minimizing disturbance. No human remains or funerary objects will be placed on display.

In determining the custody and disposition of human remains and NAGPRA items that are removed from their burial site after the passage of NAGPRA, priority is, in the order listed, to lineal descendants, culturally affiliated tribes, to tribes on whose aboriginal land the remains were removed, or to tribes with the strongest demonstrated cultural relationship.

The PARK will provide a place for reburial of human remains and funerary objects within the park, and work with tribes to determine an appropriate, time, procedure, and location for reburial. The PARK will protect the locations of reburial to the fullest extent allowed by Federal law. All reasonable expenses associated with disposition and reburial of human remains and funerary objects will be paid for by the National Park Service, including travel expenses and per diem for two tribal representatives involved in the consultation and reburial process, unless these individuals are tribal employees tasked by their tribal government to work with the NPS or other federal agencies to aid in the implementation of NAGPRA. Tribal representatives may visit reburial sites, and PARK officials may provide transportation for that purpose.

Tribes who have a dispute about the determination of cultural affiliation, or which have a claim that conflicts with other tribes, or which are not able to agree on disposition or treatment of cultural items, shall inform the park superintendent about their dispute in writing. The PARK will convene a meeting with the disputing parties to identify a third party who can act as a mediator in resolution of the dispute. If a resolution cannot be reached, the Park or tribes may take the dispute to the NAGPRA Review Committee or litigate the issues in the United States District Court.