



1996-11

# Historic Preservation Training by and for Indian Tribes: Report of a Workshop on Tribal Needs and Priorities

University of Nevada, Reno  
and  
Crow Canyon Archeological Center  
1996



National Center for Preservation Technology and Training

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US Department of the Interior  
National Park Service  
National Center for  
Preservation Technology and Training  
Publication No. 1996-11 (95-02)

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Funding for this project was provided by the National Park Service's National Center for Preservation Technology and Training, Natchitoches, Louisiana. NCPTT promotes and enhances the preservation of prehistoric and historic resources in the United States for present and future generations through the advancement and dissemination of preservation technology and training. NCPTT's Preservation Technology and Training Grants program develops partners in non-profit organizations, universities and government agencies throughout the United States to complete critical preservation work and lends significant support to cutting-edge developments in the conservation and preservation community.

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## **I. Introduction:**

This is the report of a workshop held on August 19 through 23, 1996 at the University of Nevada, Reno (UNR) to consider the training needs of Indian tribes in historic preservation. The workshop was sponsored by the National Center for Preservation Technology and Training (NCPTT) through a grant provided to UNR and the Crow Canyon Archeological Center.

As originally conceived, the purpose of the workshop was to bring together Indian tribes and archeologists to consider what training tribes felt they needed in order to preserve ancestral sites. Since such sites are usually eligible for inclusion in the National Register of Historic Places (National Register), it followed that the project should focus on what training is needed to participate effectively in programs to identify and manage National Register properties under the National Historic Preservation Act (NHPA) as well as such related authorities as the Native Graves Protection and Repatriation Act (NAGPRA) and the Archeological Resources Protection Act (ARPA). Initially, the focus of the project was to be on two parts of the country: the Southwest and Northwest Tribes and archeologists from the two areas were to come together to discuss and resolve concerns and to articulate training needs. Later the project was modified to address a wider range of tribes and a broader range of concerns, going beyond archeology to consider historic preservation in general..

As planning progressed, continuing events led to further changes in direction. Notably, a number of tribes applied to the National Park Service (NPS) to take over the

functions of State Historic Preservation Officers (SHPOs) within the exterior boundaries of their reservations. Such an assumption of functions is provided for in Section 101(d)2) of NHPA, which also (at Section 101(b)(3)) spells out the responsibilities of SHPOs. As the dates and agenda for the workshop began to be firmed up, NPS began the formal process of approving the first twelve of these applicants to assume the functions they had requested. At this point it became obvious that the primary participants in the workshop should be representatives of the first twelve approved "Tribal Historic Preservation Offices." It was reasoned that these twelve tribes, having thought through their programmatic needs sufficiently to prepare proposals acceptable to NPS, would have well-organized conceptions of their own training needs and the needs of other tribes with similar interests and concerns.

In the end, participants included representatives of Tribal Historic Preservation Offices and other tribes, together with Federal and state agency representatives. A full participant list is provided in Appendix A.

Prior to the workshop, UNR mailed all participants an initial proposed agenda, with the caveat that it was subject to modification by the participants. As the workshop unfolded, the agenda was in fact modified, though never explicitly. A discussion of the agenda and its evolution is provided in Appendix B.

The focus of this report, consistent with the purposes of the grant, is to identify tribal training needs in historic preservation, to begin roughing out a curriculum for a

tribal training program or programs, and to identify some possible sources of the training that is needed. Training needs do not exist in a vacuum, however; they must be understood in historical, cultural, and political contexts. Some of the contexts that influenced the workshop and the report are discussed briefly in Appendix C.

This report will first address the training needs identified by the participants as important for ALL tribes, including but not limited to those assuming SHPO responsibilities. Next we will turn to training needs specific to THPO tribes. In each section, an attempt will be made to develop a menu of curriculum elements, and to identify possible sources of each element of training. We will then outline the participants' thoughts about how training for tribes should be organized and presented.

The workshop also revealed a number of concerns about how others --notably Federal agencies -- are trained. It also elucidated a number of issues not directly related to training, that the participants regarded as important. These are discussed in the penultimate section of the report.

This report concludes with recommendations to NCPTT, NPS, and others resulting from the workshop. Three appendices provide additional pertinent detail.

## **II. Training Needs: All Tribes (including THPOs)**

### **A. Cultural Resource Law, Regulation, Policy and Procedures**

The participants agreed that there is a widespread need among all tribes for training in cultural resource law, regulation policy, and procedure, so that tribes can work effectively within the Federal (and other) legal system(s) to protect resources and advance program goals. The laws and related authorities whose requirements need to be addressed include but are not limited to NHPA, NAGPRA, AB.PA, the National Environmental Policy Act (NEPA), the American Indian Religious Freedom Act (AIRFA) and Religious Freedom Restoration Act (RFRA) as these relate to protection of cultural resources important to tribes, and Executive Orders 12898 and 13007.

It was noted that Keepers of the Treasures, with financial assistance from NPS, is currently working on development of a general training course on cultural resource law; the participants looked forward to reviewing the training material for this course as it is developed.

The following menu of training opportunities can be abstracted from the participants' discussions of this kind of training:

*1. Basic Training* for all tribal preservation staff and others interested in the subject:

- a. The subject matter of cultural resource law. Differing definitions and uses of the term "cultural resource" by agencies, archeologists, SHPOs, and tribes.

b. The pertinent laws, executive orders, regulations, standards, guidelines. Differences and conflicts among laws.

c. The review process under Section 106 of NHPA and how it relates to other cultural resource authorities. Programmatic Agreements under Section 106 and how they can alter the review process.

d. Legal issues such as Supreme Court and lower court decisions interpreting laws and regulations, how these influence implementation.

e. Tribal relationships with other participants in Section 106 review and implementation of other cultural resource requirements. Roles of the SHPO, ACHP, proponent and regulatory agencies, land managing agencies, project applicants, local non-tribal governments, and the public both tribal and non-tribal. The government-to-government responsibility and how to explain it to other participants.

f. The role of the tribal council vis-a-vis the historic preservation program. Establishing the scope of the program's authority; what the program can do before, during, and after government-to-government consultation between a tribal government and a Federal agency.

g How Section 106 and related authorities are and can be implemented in the following different contexts:

(1) On trust lands. Role and authority of the Bureau of Indian Affairs (BIA) Tribal roles under existing laws and regulations, including the Indian Self - Determination and Education Act.

(2) On fee lands within the external boundaries of reservations Tribal roles, SHPO roles, other agency roles.

(3) On lands outside reservation boundaries that comprise a tribe's aboriginal homelands Relationships of cultural resource laws and treaty rights, ceded lands issues and issues concerning tribal use areas outside reservations. What to do if treaty rights cannot be invoked.

h. Ownership of cultural items and "archeological resources," and of manuscripts, audio and video recordings, other documentation Intellectual property rights.

i. Issues concerning information management and the confidentiality of information about cultural resources. Provisions of the law, means of providing confidentiality, pros and cons of confidentiality How to talk about sacred things.

j Issues concerning reburial and repatriation of ancestral remains and objects under NAGPRA and under other federal and state laws Complications with ARPA.

k Implementation problems and solutions: institutional impediments to effective tribal participation, such as those embedded in the worldviews and procedures of Federal agencies, SHPOs, and archeologists. The complexity of the legal requirements, and contradictions that exist among the different rules. Strategies for addressing such problems How to educate Federal agencies regarding tribal perspectives and procedures.

1 Effective strategies, such as:

(1) Contracting to carry out preservation work, both on and off the reservation. Avoiding conflict of interest, especially where the tribe carries out Federal agency functions under a P L. 89-638 contract, compact, or other self-governance arrangement.

(2) Partnerships, including those with other tribes, multi-tribal organizations, State and local governments, Federal agencies.

(3) Developing cooperative working relationships with agencies and experts. Cooperative Agreements, Memoranda of Understanding, Programmatic Agreements, Comprehensive Agreements. Understanding and working with agency procedures on non-tribal land, getting them to follow the tribe's rules on tribal land.

(4) Identifying and working with tribal experts. How to work with the elders. Contracts with elders (Note: the Yurok Tribe has developed such contracts). How to find Indian experts in various cultural resource fields. Use of cultural committees.

m. Resolving conflicts. Alternatives to litigation. Mediation and other forms of dispute resolution. Litigation.

## *2. Specialized Training for Various Elements of Tribal Government and Tribal Members.*

Several needs were identified for training tribal groups and individuals other than those directly involved in tribal historic preservation programs:

a. Training (briefings) for Tribal Council members, covering elements of the above, but in much less detail, perhaps employing video and brochures.

b. Training for Tribal attorneys and judges, covering much of the above but from a lawyer's perspective, with an emphasis on case law, strategies for resolving issues without litigation, and on litigation strategies.

c. Training for tribal departments other than historic preservation programs, such as roads departments, timber and other resource management departments, that may need to address historic preservation requirements.

d. "Training" for elders less a matter of formal training than of acquainting them with the legal context in which the THPO is working when, for example, he or she seeks to use Section 106 or NEPA to protect a sacred site. Limitations on how much protection the law affords, problems with confidentiality, etc.

e. Training for museum personnel, with a stress on training museum generalists, not specialists. Use of elders to teach the proper handling of cultural items, and elder participation in museum management.

f. Translation and interpretation of laws and procedures for tribal members in general.

g. Certification of individuals trained to carry out specific preservation-related work such as resource identification (Note: the Confederated Tribes of the Umatilla Reservation have a well-developed certification program).



## B. Program Development

Another important area in which the participants agreed that much training is needed is in the development of tribal historic preservation or cultural resource management programs -- both those that anticipate taking over SHPO functions and those that do not.

*1. General Program Development.* The following menu of curriculum items was identified as having value to tribal cultural resource programs in general.

a. Defining the focus of the program Historic properties? Cultural resources? Cultural values in general? Note The Yurok Tribe is discussing including whole species, such as tan oak, in its definition of "cultural resources" subject to consideration in tribal planning<sup>1</sup>.

b The organization of a tribal preservation program. What's required and what's not? Variability based on scope of program, cultural values, etc.

c. Funding and fundraising. Training in funding should address such topics as:

(1) Seeking and administering funds from the tribal government.

(2) Obtaining and using funds from gaming revenues

(3) Grants. Governmental and non-governmental sources of grants. The first steps in seeking a grant. Application preparation. What information to maintain to support an application or administration of a grant. Writing a grant proposal.

Cooperative teamwork with other departments, outside parties in grant development (Note: Lac du Flambeau worked with foresters, fish and game, planners in preparing grant proposals).

(4) Obtaining funding for full time staff, as opposed to project funding.

(5) The Federal budget process, and accounting procedures for the administration of Federal funds.

The participants highlighted the fact that the tribal governments are the most stable sources of funding in many cases, so there is a need to educate tribal government officials -- not in funding per se, but in the mission and value of the tribal program. Extra-tribal sources of funding mentioned by various participants included the one percent of construction costs made available for training by the Tribal Employment Rights Organization (TERO), contracts and compacts under the Indian Self-Determination and Education Act, charging for permits to carry out activities on tribal lands, leases and management agreements under Section 111 of NHPA, and private funding sources. Keeping up to date on available funding and procedures is a key need, that should be a focus of training. The workshop noted that a workshop on fundraising is held each year in Rapid City, SD sponsored by the Oglala Sioux Tribal Council, and that the Falmouth Institute offers good training in grant writing. They also highlighted the potential for training one another in fundraising and fiscal administration, building on one another's strengths.

2. *Public involvement.* Although basic to program development and administration, this subject is sufficiently complex to require special attention. Topics to address include:

- a. How to make the program relevant to all parts of the tribal community. Staying "in synch" with the community's values, interests, priorities.
- b. How to involve tribal members -- both elders and others -- in the program..
- c. Information dissemination to different elements of the community.
- d. Working with non-tribal members such as owners of fee land within the exterior boundaries of the reservation and adjacent agencies and property owners.

3. *Tribal preservation procedures.* Tribes use a wide variety of vehicles to manage cultural resources and structure the operations of cultural resource or historic preservation programs. Sharing information and experiences about such procedures could be very valuable. Topics to be addressed include:

- a. Tribal codes and ordinances.
- b. Tribal permit procedures (e.g., for access, for archeological research, etc.).
- c. Tribal plans, including resource management plans.
- d. Systems of law enforcement.
- e. Cultural committees and other oversight bodies.

f. Participation by traditional organizations such as elders' councils in preservation program operations.

g. Cooperation among geographically and/or culturally related tribes in preservation program administration and to address issues of mutual concern such as resource protection on ancestral land and repatriation of "unaffiliated remains" under NAGPRA<sup>2</sup>. Need to respect traditional protocols for sharing information among tribes.

4. *Database management,* including management of inventory data, archives, and other bodies of relevant information. Some tribes have significant experience and expertise in this area<sup>3</sup>, and there are relevant Federal agency and SHPO models as well. Topics that should be addressed include:

- a. Basic records management, addressing issues of accessibility, record keeping, and general management.
- b. How to maintain confidentiality, and balance the need for confidentiality with the need to make data available for use.
- c. Integration of databases into planning
- d. Integration of databases into identification.
- e. Geographic Information System (GIS) and Global Positioning Satellite (GPS) technology and applications.

5. *How to apply to take over SHPO responsibilities:* an overview of SHPO functions and their practical implications, as well as the procedures for applying for THPO status. The following are some of the

SHPO functions that would need to be addressed:

a. Section 106 review, involving the review of reports, consultation with and advice to agencies about defining an undertaking's area of potential effects, about identifying historic properties, about evaluating them to determine whether they are eligible for the National Register, about the effects of the undertaking, and about mitigation measures. Preparation and execution of agreements, and monitoring implementation<sup>4</sup>. Project tracking systems, perhaps based on widely used tribal court docket tracking software.

b. Identification of historic properties, involving fieldwork in some cases but more often requiring review of projects carried out by others. Maintenance of a historic properties inventory, establishing and promoting identification standards, assisting and reviewing the reports of identification project, evaluating properties against the National Register criteria and/or tribal register standards<sup>5</sup> A variety of special skills may be necessary, and may require access to specialized training. Examples discussed in the workshop included application of GIS, GPS, and other mapping and database technology, application of the National Register Criteria and deciding how much information needs to be collected to do so, the detailed recording standards of the Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER), and identification methods where toxic and hazardous wastes may be present.

c. Nomination of properties to the National Register, generally involving the receipt and review of nominations prepared by others as well as the establishment of a nomination strategy and the preparation of forms<sup>6</sup> Specific training in nomination would include interpreting and applying the National Register Criteria (36 CFR 60.4), using appropriate National Register Bulletins and other guidance, and preparation of nomination forms and supporting documentation. Training might be built around a study of pertinent National Register Bulletins and existing nominations, and cross-training with SHPOs.

Under NPS regulations, an SHPO also must maintain a State Review Board made up substantially of preservation professionals to review National Register nominations. NPS indicated uncertainty about whether and how much it can waive, reduce, or modify this requirement for tribal programs, some of whom regard such specification of governmental organization an abridgement of sovereignty. To the extent this requirement cannot be waived, tribes will need training in the establishment and operation of review boards, to the extent it IS waived, training may be needed in other ways to process nominations.

d. Planning, involving the development and implementation of State (sic) Historic Preservation Plans<sup>7</sup>. The knowledge, skills and aptitudes required for historic preservation planning remain somewhat undefined, in part because among SHPOs "planning" means two different things planning the work and priorities of the SHPO, and working with overall land-use and development planning. The former requires skill in traditional preservation disciplines and practices, while the latter suggests knowledge of planning itself. As a result of these divergent approaches to

planning, it is difficult to specify just what kinds of training might be needed by a tribe that intends to assume SHPO functions.

However, tribal programs at least, those represented at the workshop are often deeply involved in land-use and resource management planning, so there is a considerable potential for intertribal cross-training<sup>8</sup>. For example, the Hualapai Tribe has an interdisciplinary team that analyzes the impacts of every project proposed on the reservation, to establish levels and kinds of analysis required under NEPA. The Confederated Tribes of the Warm Springs Reservation are developing "Integrated Resource Management Plans" for forested, non-forested, and residential areas of the reservation. The Yurok Tribe is working with Redwood National Park on its General Management Plan, and providing training for its staff by doing so. The Navajo Nation carries out planning that is more specific to historic preservation for example, establishing policy on the treatment of different classes of property -- which can then be integrated into larger-scale planning.

Training in planning thus might use existing tribal programs as models, involving the study of existing plans and the sharing of views regarding their effectiveness and application under different circumstances. Land-use and historic preservation planning courses offered by universities and other vendors might also be useful, though their relevance to tribal needs would have to be carefully evaluated<sup>9</sup>.

### **C. Outreach**

Many of the participants stressed the importance of outreach to the tribal and non-

tribal public as an important function of any tribal historic preservation or cultural resource management program, and hence as an area in which training may be needed. Few specific recommendations for training in outreach were offered, but the following can be abstracted from general comments throughout the workshop.

*1. Program explanation.* There is an overall need to explain a tribal program to diverse publics, including elders, non-traditionalists, tribal councils, other tribal agencies, and the non-tribal public. Videotapes, workshops, popular publications, and a variety of other vehicles can be used to provide such explanations. Sharing of approaches among tribes would probably be the best approach to training in this area.

*2. Use of the program to educate the young.* There is great value in, and a great need for, using the information and approaches developed by a tribal program to educate the young. The workshop viewed a videotape produced by the Confederated Tribes of the Umatilla Reservation that provided an excellent example of such educational efforts. Intertribal cross-training in how to conduct such educational programs, and how to fund them, could be important.

*3. School curricula.* There is a need to build knowledge of and an appreciation for cultural resource management into the curricula of tribal and non-tribal schools. The sense of the workshop seemed to be that such curriculum development should address both the history and cultural values of the tribe and the processes of historic preservation and other aspects of cultural resource management. Here again, sharing experiences among tribes that have

undertaken such educational efforts would probably be the best form of training.

### **III. Training Needs Specific to THPOs**

Predictably, the list of training needs specific to THPOs developed by the workshop was much shorter than the list of tribal training needs in general. This reflects the fact that — as provided for by NHPA --THPO programs are highly variable in character and emphasis, and tend to be more similar to other tribal historic preservation and cultural resource management programs than to SHPO programs or other non-tribal models. In other words, the training that any tribal program may need is also training that at least some THPOs are likely to need.

Conversely, the training needs specific to THPOs identified by the participants, are probably not, on the whole, really specific to THPOs. The training needs discussed below might better be viewed as a list of “master courses” needed by tribal historic preservation programs generally, whether such programs assume SHPO functions or not. In any event, identified training needs specific to THPOs generally fell into two categories “Program” and “Tools.

#### **A. Program**

*1. Preservation leadership.* The THPO should provide leadership in historic preservation, and where appropriate other forms of cultural resource management, in the tribe and with relevant non-tribal communities. The participants were unspecific about what they saw leadership to entail, but clearly most if not all of them are providing it within their tribes. There appear to be several different models of leadership among the tribes represented at the

workshop. For example, some tribal historic preservation programs are much more closely linked to the tribal council than are others. Training might seek to elucidate these models and compare their pros and cons.

2. *Mediation & conflict resolution.* Several participants stressed an immediate need for training in this area. Conflicts occur with the programs of Federal agencies, with the interests of private landowners within and around the reservation and on other ancestral lands, and sometimes with other tribes. Conflicts also occur with professional and academic interests, notably those of archeology and anthropology. Because these conflicts are often over sensitive cultural issues and over issues of sovereignty and property rights, they may be extremely difficult to resolve, but resolution systems short of litigation are urgently needed. This is an area in which a well-trained THPO can exercise important leadership.

A host of alternative dispute resolution (ADR) courses and programs are offered by various universities, colleges, and other vendors, but few of these are designed to address the kinds of knotty cross-cultural issues that are often at the heart of conflicts between tribes and others. The Falmouth Institute provides training in conflict resolution that is specifically tailored to tribal needs, and other sources of relevant training could probably be identified.

3. *Serving as a bridge between elders and agencies.* Tribal historic preservation and cultural resource management programs often serve as points of Contact between tribal elders and other traditionalists on the one hand, and both tribal and non-tribal

program agencies on the other. With assumption of SHPO functions under Section 106 and other authorities, the THPO's need to bridge the cultural distances between these interests is enhanced.

There is probably no way to train THPOs in how to deal with elders, and it would be presumptuous to try; the relationship between elders and tribal government officials like THPOs is strictly a matter to be worked out within each tribe. It may well be that specific training in how to perform the "bridge" function is impossible or inappropriate, but the THPO's need to perform this function must be kept clearly in mind when, for example, developing and presenting training in Section 106 review. The THPO must somehow explain the needs and limitations of Section 106 review to traditionalists in ways that make sense to them. Conversely, the THPO must explain the perceptions and concerns of the elders to agency officials and contractors who may have little experience in, or patience for, working in a cross-cultural milieu. These THPO responsibilities must be understood and addressed in development of training regarding Section 106 review, identification and inventory, planning, and other activities where the THPO serves as interface between the elders and non-traditional development and resource-use concerns.

4. *Dealing with agencies and contractors as the THPO.* All tribes need training in how to work with Federal agencies, applicants for Federal assistance and permits, and contractors in the conduct of Section 106 review, project review under NEPA, and the implementation of other laws and regulations bearing on historic preservation. THPO, however, tribes will need a special

understanding of the roles and responsibilities that come with the assumption of SHPO functions. Some Federal agencies tend to look to the SHPO as the source of all preservation wisdom, some insist that in the Section 106 process the SHPO meet precisely the time limits set forth in the ACHP's regulations. Some agencies and SHPOs have entered into agreements about ways to "streamline" Section 106 review, which may not be entirely consistent with the regulations or address tribal concerns. Agencies often send applicants for Federal assistance or licenses, or contractors, to consult with the SHPO. If agencies simply pursue the same practices with a THPO, significant problems may result. For example, THPOs may have smaller staffs than SHPOs (though this is by no means always the case) and be less able to meet tight time limits particularly since they, far more than SHPOs, are likely to find it necessary (and have the opportunity) to consult with elders who do not feel bound by regulatory time frames. Existing or proposed "streamlining" agreements may be perfectly acceptable from the standpoint of an SHPO but be entirely inappropriate in a tribal context. The practice of sending applicants and contractors or even agency technical staff -- to coordinate with SHPOs may be inappropriate if transferred to THPO coordination, because of the government-to-government relationship between the U S and tribal governments.

To address these potential problems, there is probably the need for a "master's class" addressing the responsibilities of Federal agencies, applicants, SHPOs, and other state and local agencies under Section 106 and other authorities (e g NAGPRA), from the standpoint of the THPO Joint

training with agencies and SHPOs in this subject, with tribal perspectives fully represented, would also be useful.

*5. Advancing tribal cultural interests on off-reservation ancestral lands* THPOs will be especially challenged by the fact that they can assume SHPO responsibilities INSIDE the exterior boundaries of their reservations, but on ancestral lands OUTSIDE the reservations have no more authority than any other public or private organization (except where treaties ascribe residual rights to a tribe). A different set of strategies will be needed for advancing tribal interests off-reservation than those used for doing so within the reservation boundaries. A THPO tribe that tries to operate off-reservation in the same way it does on-reservation is likely to be embarrassed and ignored.

Accordingly, training for THPOs needs to address not only what a THPO can do on the reservation, but what it can do outside. Training needs to distinguish clearly between on- and off-reservation rights and responsibilities of THPOs, SHPOs, and agencies. This sort of training probably does not require a separate course, but should be an aspect of any "master's class" developed as recommended above.

*6. Networking/sharing.* THPO programs can benefit greatly from continuing networking with one another, and sharing of information and expertise .THPOs do not need training IN networking, but they can USE networking as an important educational tool. Mechanisms (including financial support) are needed to facilitate this sort of mutual assistance and self-training.

### *7. Historic Preservation funding sources.*

The participants repeatedly pointed to the need for training of various kinds in how to obtain and administer funds. This is a general need, as noted above, but THPOs have special needs and opportunities because of their potential access to Historic Preservation Fund (HPF) funding and other fund sources linked explicitly or practically to SHPO functions (e.g., private grants for maintaining National Register properties).

## **B. Tools**

### *1. Agreement writing and implementation.*

A THPO needs to be able to write effective agreements with agencies and others -- including Memoranda of Agreement and Programmatic Agreements under Section 106 and Comprehensive Agreements under NAGPRA, but also including agreements under other laws and tribal authorities, and cooperative agreements with other tribes, agencies, local governments, multi-agency regional organizations, and SHPOs. Existing training provided by UNR and the ACHP provides a starting point, but needs to be tailored to tribal needs.

### *2. Legal mechanisms to effect preservation.*

THPOs need to be skillful in using such tools as transfer of property rights, conservation and preservation easements, and other legal devices to control the inappropriate use of lands of cultural importance (e.g., ancestral sites on fee land within the exterior boundaries of a reservation). SHPOs, Statewide and national preservation and conservation organizations, and others offer training in the application of such mechanisms, but usually tailored to operating within the milieu of local and state government. Some SHPO models might be applicable, however, and assistance could be sought from such organizations as the Nature Conservancy, the Archeological Conservancy

and the Cultural Conservancy. Although the national preservation tax incentives program administered by NPS and the Internal Revenue Service will probably be helpful only rarely in advancing tribal cultural concerns, THPOs at least need to know that this program exists, and how it works in general.

### *3. Inventory/Register development and maintenance.*

THPOs who assume the SHPO function of maintaining an inventory of historic properties, often in the form of a tribal Register of Historic Places, will need training in how such a database can be maintained in a way that meets planning and other needs while protecting confidential information. A related need was identified for training in the preparation and maintenance of appropriate maps. A number of tribes are well advanced in developing inventories, registers, and similar databases, so the potential for intertribal training in this area is high. Training in nominating properties to the National Register was identified generally as having lower priority at this time, though it may be useful in the future.

*4. Internet.* There was widespread agreement on the need for training in use of the Internet for preservation purposes, as a means of intertribal communication and communication with others, and as a source of information. There are, of course, numerous Internet training courses conducted around the country, but none that any of the participants could identify that are focussed on the needs of preservationists or tribes.



### 1. Structure

The participants generated a number of recommendations, given below, about the structure of training that should be made available to tribes.

*a. Indians should teach Indians.* To the maximum extent possible, tribal members should be the ones teaching other tribal members, though not necessarily only members of the same tribe. Because of their generally shared history and recent experience with the Federal and state governments, tribes are better equipped to teach one another than any outsider could be to teach them. Furthermore, the ways in which tribes relate to historic preservation requirements and opportunities are different from the ways SHPOs, Federal agencies, local governments, and academics do, so the experience of one tribe may be highly relevant to another, while the experience of a local government or an academic program may be far less relevant. It is recognized, however, that there are bodies of historic preservation-related expertise that are in short supply in the tribal community. Accordingly, a vigorous effort should be made to train tribal trainers. The Keepers of the Treasures class now being developed, which is to be taught by well-trained tribal members, is a good step in the right direction, but must be expanded upon and strengthened.

*b. Keep it regional.* It would be best to make training as regionally based as possible, both to minimize costs to tribes and to enhance relevance. Generally speaking, tribes in a given region (e.g., the Pacific

Northwest, the Southeast) have more shared experiences and perceptions than do tribes from widely disparate parts of the country; they are also likely to have historic properties that are more similar to one another than to those of distant tribes, and similar relationships with Federal and state government agencies. This recommendation, of course, has implications for the development of a teacher pool. To the extent possible, teachers should be trained in multiple regions.

*c. Tribes should share their expertise.* Many tribes have developed great expertise in different aspects of historic preservation, and generally speaking these strengths are complementary. Among the participants in the workshop, some have great skill in grant writing while others do not. Some have well-developed computerized historic property inventories and plans, while others do not. Some have excellent programs for educating and relating to the tribal community at large, and to such specific groups as elders, resource managers, and tribal governments, while others are less well developed in such areas. All have something to share, and each has something to learn.

It follows that an important aspect of any overall training program should be provision for tribes to share their expertise, both in general teaching contexts (teaching classes) and in more “one-on-one” ways. It would be good, for example, to facilitate extended working visits by one tribe with special expertise to another that needs such expertise.

*d. Cross-training with SHPOs.* Most of the participants were quite blunt about NOT wanting training by SHPOs as such. Most

are not interested in duplicating SHPO operations precisely, and some felt that what SHPOs have to teach was not what they need to learn. Some felt that SHPOs would have difficulty understanding historic preservation in a tribal context, and in translating preservation standards and approaches into terms that are meaningful to tribes. However, most would welcome cross-training WITH SHPOs, in which each party would share expertise with the other. Such cross-training might be explored in one or more pilot projects.

## 2. Sources

Potential sources of training were explored only briefly, but a number of useful suggestions were offered.

### *a. Sources of training opportunities*

(1) The training being developed by Keepers of the Treasures is an important step toward creating a program of tribally based training in historic preservation law and policy. This should be supported, and could be expanded if successful.

(2) The Falmouth Institute is a major source of tribal training in a wide variety of topics. It could be encouraged to develop and present training in various aspects of historic preservation.

(3) Sinte Gleska College on the Rosebud Reservation is developing a cultural resource management educational program. This program could provide a center for organizing more extensive training.

(4) UNR is linked to the ACHP and NPS by cooperative agreements, and offers a wide range of classes in aspects of cultural and natural resource management. With tribal assistance it could tailor such classes to tribal audiences, and help support their presentation.

(5) Other academic institutions, many of which have Native American studies programs, museum programs, or anthropology/archeology programs that involve Native Americans, could be sources of specific training or could be centers for the development of tribal training programs.

(6) As noted above, the tribes themselves are important sources of training, and should be helped to train one another.

### *b. Sources of funding*

Time did not permit the exploration of funding sources, but the participants touched on funding issues throughout the workshop.

(1) The two obvious possibilities are NCPTT and the NPS Tribal Grants Program. NPS can provide information on additional grant possibilities, and tribes with special expertise in grant writing and administration could be helpful to other tribes in acquiring funding. Support by NCPTT or some other entity for a pilot project to seek more extensive grant funds would be very welcome.

(2) UNR's and AC}iP's training programs are largely self-supporting, based on fees charged to students and agencies. Although fee-based training is obviously a problem for tribes that have little money, fees supplemented by grant funds could make important contributions to the support of educational programs.

(3) Corporate support by companies that do substantial business in Indian Country would be worth exploring, as would support from various intertribal organizations.

## **V. Training for Others, and Extra-Training Issues**

### **1. Need to Train Federal Agencies and Others**

Although not part of the explicit charge of the workshop, the training needs of Federal agencies, contractors, SHPOs, and others were given considerable attention by the Workshop. There is a widespread perceived need to train such non-tribal parties in how to interpret and implement the cultural resource laws with respect for tribal cultural concerns, and in how to interact fruitfully with tribes. The participants noted that academics and contractors who take part in cultural resource management need similar if not the same training. They noted special needs to train SHPOs and archeological organizations. They also noted that certain aspects of such training could be organized to stress sensitivity to cultural diversity in general, rather than with specific reference to Indian tribes. These subjects are marked with an asterisk below.

Among the subjects that should be addressed are:

a. *Tribal sovereignty, government-to-government relationships, and trust responsibility.* Generating an understanding of what tribal sovereignty means to tribes, in law, and in day-to-day historic preservation and environmental management practice. Understanding and implementing the government-to-government relationship within a Federal agency. What the trust responsibility means with specific reference to cultural resource management, generating an understanding that all agencies, not just BIA, bear the trust responsibility

*b. Treaty rights.* Related to the above general training, specific (perhaps regionally specific) training is needed to help agencies understand how reserved rights under particular treaties affects cultural resource management practice<sup>10</sup>.

*c. Cultural resource law and procedure from the Native American viewpoint.* Interpreting the law in a holistic, not atomistic, way, seeing laws like NHPA, NEPA, and NAGPRA as related and integrated authorities, and exploring their relationships to treaty rights, the trust responsibility, and tribal sovereignty. How to make the practice of cultural resource procedures flexible enough to accommodate tribal concerns<sup>11</sup>.

*d. Issues in tribal consultation \**. Training to assist agencies in effective consultation with tribes, and in establishing mutually agreeable ongoing working relationships. Understanding Native American world views and how they do and do not relate to Euroamerican views. How to involve tribes effectively early in project planning. How to address the political sensitivity of projects, conflicts, possible solutions, and general approaches. Understanding the time and fiscal constraints experienced by tribes. Mechanisms such as reimbursement and contracting to handle these constraints.

*e. Respecting the elders \**. Specific issues where tribal elders are explicitly involved in consultation. Contrasting belief systems and means of communication. Contrasting views regarding ownership of land, objects, and knowledge. Appropriate and inappropriate ways to seek elder input. Elder consultation and the government-to-government relationship. Compensating elders.

*f. Intellectual property rights\**. Avoiding abuse of a tribe's or individual's rights to such intellectual property as oral history, tribal traditions, religious beliefs and practices, traditional medicine, and traditional subsistence practices. How to avoid such abuse while collecting and using the information needed for cultural resource management. Means of providing for information to be obtained and used in confidence; legal, procedural, and practical procedures.

*g. Treatment of ancestral remains and objects.* Respectful treatment of human remains, associated and unassociated objects, sacred objects, objects of cultural patrimony, when found in the ground or on museum shelves. Specific training in culturally sensitive museum collections management. Repatriation procedures. Tribal preferences regarding repatriation.

*h. Identification and management of traditional cultural places\**. What traditional cultural places (TCPs) are, how they relate to the National Register and Section 106, the meaning and intent of pertinent guidelines, Native American views of TCP management issues. Legal constraints and opportunities.

*i. Contracting issues\**. How to make scopes of work and contracts sensitive to tribal concerns, and to avoid conflict with tribal values and the government-to-government relationship. Controlling contractors. Contracting with tribes.

*j. Addressing specific issues that tend to poison the relationships between tribes and agencies, such as:*

(a) Control of the Section 106 and NEPA review processes by non-Indians, resulting in the imposition of world views and legal interpretations inconsistent with tribal values.

(b) A perceived agency tendency to “meeting tribes to death,” by insisting on extensive uncompensated tribal participation in public meetings and other formal Euroamerican forms of “consultation.”

(c) A perceived overemphasis on archeology, agency assumption that archeologists are the proper interfaces with tribes, that tribal resources are “archeological resources,” and that archeological resources are the exclusive focus of the cultural resource laws. Archeological world-views and how they relate or do not relate to tribal world views.

(d) Playing off one tribe against another, for example, insisting that because Tribe X signed an agreement, Tribe Y ought to, or overemphasizing perceived differences of opinion among tribes.

(e) Inflexible interpretation of regulatory requirements, such as insisting that extensive documentation be prepared to support a judgement that a place is eligible for the National Register of Historic Places.

(f) Perceived ill-treatment of ancestral objects, for example by keeping them in non-catalogued collections (e.g., the Ranger’s bookshelf) or allowing inappropriate public viewing.

## 2. Extra-Training Issues

The participants also identified and discussed a number of non-training issues. Although the original scope of the workshop

did not envision addressing such issues, some of them are of considerable importance, and influence whether and how various kinds of training can be developed and implemented. The following issues received particular attention by the participants.

*a. National Conference of Tribal Historic Preservation Officers?* The participants were enthusiastically in support of continuing organized interaction, which they initiated during the workshop. Whether this could or should lead to an organization along the lines of the National Conference of State Historic Preservation Officers was not decided, nor was the relationship of such a group to Keepers of the Treasures established. However, there is no doubt that the tribes will continue to work together on issues of common concern, and might well organize some kind of group to help them do so.

*b. The appropriations process.* The availability of Federal funds to support the Tribal Grants Program and other tribal cultural resource management activities is, of course, dependent on the Federal appropriations process. Tribal Historic Preservation Officers need to pay close attention to this process, and ensure that the Secretary of the Interior and the Congress are aware of their needs and accomplishments.

*c. Flexibility.* Tribal Historic Preservation Officers are authorized to take over functions of the SHPO, but to what extent does this mean that they must be mirror images of the SHPO, and meet the same standards? This is an open question NPS representatives at the workshop expressed considerable openness to alternative ways of

carrying out “SHPO” functions in tribal contexts, but are constrained by current interpretations of the language of the law. Tribes probably need to articulate their concerns about flexibility to the Secretary of the Interior in order to promote resolution of this problem.

*d. Archeological Resources Protection Act (ARPA).* A number of problems exist with implementation of ARPA. Specifically, ARPA regulations require that all artifacts from Federal and tribal land are the property of the U S. government, and must be retained in perpetuity in museums and academic institutions. Although NAGPRA provides for “Native American Cultural Items” to be repatriated to tribes, it does not address the repatriation of other kinds of artifacts. Changes may be needed in the regulations and/or in the law itself.

*e. Agency recognition of THPOs.* Some agencies, including BIA according to some participants, do not recognize tribal HPOs as having assumed SHPO authorities, and insist on continuing to work only with SHPOs. Agencies need guidance in this from both NPS and ACHP.

*f Authority of the THPO vis-a-vis the tribal government.* Some participants are having trouble working out how their authorities and responsibilities under NHPA relate to the authorities of their tribal governments. No resolution was offered to this problem, but all participants recognized that they must work closely with their tribal governments, and make sure that they understand the historic preservation officers’

work and worth.

*g. intellectual property rights.* Tribes, elders, and traditionalists certainly have intellectual property rights to their knowledge of tradition, spiritual matters, and cultural practice in areas such as the gathering and use of native medicines. Tribal historic preservation officers sometimes need to gather such information, and to share it with others (e.g., Federal agencies) for planning purposes. This potential conflict was not discussed extensively, and no overall solutions were posed, but it obviously needs to be flagged for further discussion at future workshops, meetings, and training events.

*h. Confidentiality.* Related to the matter of intellectual property rights is that of confidentiality. Maintaining confidentiality about sacred sites and practices, and other cultural matters as well, is of great importance to many tribes and their elders, but participation in things like Section 106 review tends to require -- or be perceived to require — that confidential information be shared. The recent issuance of Executive Order 13007 is likely to exacerbate this problem, since it provides that for a sacred site to be considered by a Federal agency, the agency must be notified of its existence and location by the tribe that values it. Section 304 of NHPA and Section 9 of ARPA provide for information on such places to be kept confidential, but there are many uncertainties about how these provisions can be used, and even if they are employed, elders are still expected to share their information with Federal agency managers outside the tribe, it is the managers who can then keep the data confidential. This is an issue that needs further detailed exploration.

*i. Contracting.* A number of tribes are partially supporting their historic preservation programs by contracting with Federal agencies to conduct surveys and to perform other preservation-related activities. Contracting can make important contributions to a tribal program, but it also raises questions about the application of personnel standards and about possible conflicts of interest.

*j. 638 contracts.* A special contracting issue may arise when a tribe assumes SHPO functions under NHPA and also takes over a Federal agency's program under a Public Law 93-638 (Indian Self Determination and Education Act) contract, compact, or self-governance agreement. In such a case the tribe may be acting both as the Federal agency and as the SHPO in Section 106 matters. Although this issue was raised by one of the participants, it was not discussed in any detail, but it is clearly a potential problem that needs further consideration.

*k. Review of existing agreements.* Over the years, agencies, SHPOs, and the ACHP have executed many Programmatic Agreements (PM) specifying how Section 106 of NHPA will be complied with in particular states or regions, or with respect to particular programs. SHPOs and agencies have also entered into bilateral agreements of the same kind. These agreements have usually been entered into without tribal participation, and are unlikely to be sensitive to tribal needs. There is a clear need to review all such agreements, and to void and renegotiate those that do not provide adequately for addressing tribal concerns.

## VI. Recommendations

Recommendations were not very explicitly formulated, but can be abstracted from the discussions. Recommendations were provided, at least implicitly, to NCPTT, to NPS in general, to the ACHP, to the National Conference of SHPOs, and to UNR and Crow Canyon as the workshop organizers. Most of these, naturally, relate to training, but some spring from the other issues discussed above, and are included here to reflect the whole sense of the workshop.

*a. Recommendations to NCPTT.* Generally speaking, NCPTT should review the kinds of training identified in this report as needed, consider which of them it might be able to support, and solicit and entertain proposals to conduct such training. Special emphasis should be given to the kinds of training that are not now available, or becoming available, in other contexts, such as intertribal cross-training. NCPTT might also consider providing continuing assistance to Keepers of the Treasures for the development and enhancement of its training efforts.

NCPTT might also make an important contribution by convening a meeting of tribal and preservation training providers, to explore ways to fund and provide the kinds of training called for in this report.

*b. Recommendations to NPS.* NPS needs to resolve the non-training issues identified above regarding flexibility and ARPA, and should support intertribal cross-training through the Tribal Grants Program. NPS also needs to work with the ACHP, National Conference of SHPOs, and Federal Preservation Forum to ensure that agencies

fully understand the roles, responsibilities, and authorities of tribal historic preservation officers and tribal programs in general.

*c. Recommendations to the ACHP.* The ACHP urgently needs to collaborate with NPS in advising agencies about the new roles of tribal historic preservation officers in the Section 106 process. It also needs to undertake a comprehensive review of all PM and SHPO-agency agreements to ensure their responsiveness to tribal concerns, in consultation with the tribes. It urgently needs to work with tribes and others to resolve the issues surrounding the rights and responsibilities of tribal historic preservation officers (1) on fee land within the external boundaries of reservations, and (2) off-reservation. Finally, it should seek an appropriation to support the employment of tribal intern instructors in its training classes, to help develop a cadre of tribal trainers.

*d. Recommendations to the National Conference of SHPOs.* The National Conference should cooperate with and assist the tribal historic preservation officers (with or without a formal organization) in advancing the purposes discussed in this report, and should encourage tribal-SHPO cross training.

*e. Recommendations to UNR and Crow Canyon.* UNR and Crow Canyon should help tribal preservation officers and other tribal cultural resource management groups continue the dialogue that was begun in Reno, and to pursue the goals set forth in this report. They should assist in seeking grant funds to support needed educational programs not only for tribes but for Federal agencies. UNR, like the ACHP, should begin systematically to integrate tribal intern

trainers into its heritage resource management off-campus courses.



## Appendix A: Participants in the Workshop

The twelve tribes whose applications to assume SHPO responsibilities were pending final approval by NPS<sup>12</sup> were invited to participate in the workshop, and eleven took part. The Washoe Tribe of Nevada and California also took part, both as host nation on its ancestral land and as the holder of a separate NCPTT training grant<sup>13</sup>.

Other participating organizations included:

NCPTT, an element of NPS based in Natchitoches, Louisiana, which supports technological development and training in aspects of historic preservation;

NPS's Heritage Preservation Services Division, which oversees the approval of tribal programs to assume SHPO functions as well as a small program of grants to tribes,

The National Conference of SHPOs (NCSHPO), which represents the nations 59 SHPOs on a national basis;

Keepers of the Treasures, a nationwide intertribal group concerned with the preservation of tribal and Native Hawaiian cultural values and resources;

The Advisory Council on Historic Preservation (ACHP), a federal agency that oversees compliance with Section 106 of NHPA, a matter of broad interest to tribes, and which has independent authority under NHPA to allow tribes to substitute their own procedures for the Section 106 review requirements of the ACHPs regulations (36 CFR 800); and

The Crow Canyon Center and UNR, which organized and facilitated the workshop;

Following is a full list of participants

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The workshop was facilitated by Dr Thomas F King, an adjunct member of the UNR faculty, who also prepared this report

**Appendix B: Workshop Agenda and its Evolution**

The initial workshop agenda, as mailed out to participants, was as follows:

**Training Needs of Tribal Preservation Programs**

PRELIMINARY AGENDA  
subject to adjustment

**Monday, August 19**

- 9:00 a.m. Welcome
- 9:15 Introductions, discussion of general purposes; Identify participants’ major concerns and interests; Adjust all remainder of agenda as needed
- 10:00 Break
- 10:15 Round table on tribal programs; What challenges do you face? What is your program doing? Strengths, weaknesses? Where and how do you need help?
- Noon Lunch
- 1:00 p.m. Continue round table
- 2:00 Break
- 2:15 Communicating what’s culturally appropriate and inappropriate to outsiders, including Federal agencies What skills are needed? Is there a need for training? For whom? How can it be provided?
- 3:00 Break
- 3:15 Tribal and State Historic

Preservation Officer (SHPO) roles in review of projects under Section 106 of the National Historic Preservation Act (NHPA) and in National Environmental Policy Act (NEPA) review; What do SHPOs and tribes do now? What is expected by agencies, the courts, the tribal government, the elders, the public(s)? What (if any) professional standards are needed? Is there a need for training? For whom? To what extent is available Advisory Council on Historic Preservation (ACHP) training sufficient for tribes’ needs? What more (if anything) is needed?

- 5:00 Adjourn
- 5:30 - 6:30 University Inn Patio, Social Hour

**Tuesday, August 20**

- 9:00 a.m. Substitution of tribes for SHPOs and of tribal procedures for ACHP regulations. What does the SHPO do? How far can a tribe go in tailoring the SHPO role or the standard system of Section 106 review? What adjustments would be desirable? What training is needed? What training can tribes or tribal organizations provide one another?
- 10:00 Break
- 10:15 Survey and identification What activities are needed? What professional/other skills are needed? What training is needed? Where (if at all) is it available? Is there a need for training development? By whom, how, where? Discuss different kinds of identification-traditional cultural places (TCP), archeology, buildings, landscapes, etc.
- noon Lunch

1:00 p.m. Nominations to the National Register of Historic Places; What (if anything) do tribes want to nominate? When is nomination useful? What about alternatives? Tribal registers. Alternatives to registration. Is training needed? If so, where is it available? Need for training development?

2:00 Break

2:15 Archeological data recovery and research.. Do tribes want to do it? When, and under what circumstances? What professional standards (if any) should apply? What training is needed? Geographic Information System (GIS) and Global Position Satellite (GPS) application and training. Other technology training.

3:00 Break

3:15 Native American Graves Protection and Repatriation Act (NAGPRA) and Archaeological Resources Protection Act (ARPA) issues. Repatriation and tribal programs. Protection and tribal programs. Managing problems with vandalism, unpermitted excavation, management of ARPA permits. Interaction with law enforcement. Interaction with Federal agency, NAGPRA and ARPA programs, Is existing training sufficient? What else is needed?

5:00 Adjourn

### **Wednesday, August 21**

9:00 a.m. On-the-ground identification and management of historic buildings and structures; Architectural history, historical architecture. Rehabilitation. The Secretary of the Interior's Standards and Guidelines

What do tribes need? What training is available?

10:00 Break

10:15 Interactions with planning. Comprehensive land use planning, resource management planning. Who's doing it? What problems are there? Is training needed? For whom? How can it be provided?

Noon Lunch

1:00 p.m.. Tribal museums, curation facilities; What standards (if any) should be followed? What training is needed? What's available?

2:00 Break

2:15 Reconvene round table from first morning. Assess progress of workshop so far.

5:00 Adjourn

6:30 Meet in University Inn Lobby for transportation to Don and Kay Fowler's for buffet dinner

### **Thursday, August 22**

9:00 a.m. Setting up and operating a Tribal Historic Preservation Program. Focus on general administration, grants administration, etc.; What's involved? How is it different from and similar to operating a State Historic Preservation Office? What standards must be maintained? What training is needed? What training is available? What more needs to be done?

10:00 Break

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10:15 Funding. Grant application and administration. What are some successful and unsuccessful strategies? What training is needed? What training is available?

Noon Lunch

1:00 p.m. Variability among tribal programs based on size, money, interests, resources, tribal law; Relations with tribal council and other political bodies, Relations with other tribal programs (resource management, 638 contracts, etc.); Tribal ordinances and other laws; Cultural variability; How does all this variability affect needs for training?

2:00 Break

2:15 p.m. Training by the tribal program. Who needs training? What kinds of training? Elder training, Tribal Council training, training for tribal officials and employees How can such training be provided?

3:00 Break

3:15 Where to from here? Wrap-up and plan next steps; Outline curriculum needs. Identify actual/possible providers. Discuss Keepers of the Treasures training program Provide direction to reporter

5:00 Adjourn.

### Friday, August 23

9:00 a.m. Complete wrap-up  
Reconvene round table and bring discussion to completion.

10:30 Break

10:45 Final thoughts by all participants  
Closing.

11:30 Adjourn

As anticipated, the agenda evolved as the workshop proceeded. On the first morning, each participant was asked to outline his or her program and special interests, and to identify particular issues that she or he wanted the workshop to address. This articulation of issues became an important subtext for the workshop, and a deliberate effort was made to address them all.

When a discussion of training needs related to Section 106 of NHPA was initiated toward the end of the first day, it became apparent that the participants had widely varying impressions of the Section 106 review process, and had many questions about it. Some had come with the expectation that they would receive training in this and other areas of concern. Accordingly, the second morning was given over to walking through the process and discussing pitfalls and training needs associated with each step.

In discussing the training needs of THPO programs, it turned out to be helpful to have Ms. Britta Bloomberg, representing NCSHPO, go through the various functions of her office, the Minnesota SHPO, and give everyone the opportunity to discuss each one.

Many of the tribes were concerned about NPS policy in two broad areas:

1. How much flexibility tribes have to make their THPO programs different from standard SHPO programs -- in other words, to what extent to THPOs have to meet the same standards as SHPOs -- and

2. Policy regarding the treatment of Native American cultural items and other material remains produced by tribal ancestors, under NAGPRA, ARPA, and 36 CFR 79, regulations governing the management of Federally owned archeological collections.

While the NPS representatives could address the first point to some extent (subject to Solicitor review), the second could not be addressed in any detail since the relevant NPS office (Archeology and Ethnography) was not represented. In any event, a good deal of time was given to articulating the tribal concerns for further consideration by NPS. Though not directly related to training (except insofar as they influence what tribal preservation personnel may need to be trained to do), these concerns colored much of the discussion, and are addressed separately at the end of this report.

Many THPOs are also responsible for, or engaged in, work with tribal museums and archives. Accordingly, a special period was set aside on the third afternoon for interaction with Dr. Nancy Parezo of the Arizona State Museum, to discuss museum issues and training needs and opportunities.

Finally, there was much interest among the tribes in developing an interactive network of mutual assistance and cross-training. The occasion of the workshop was the first time the majority of the "THPO" tribes had come together as a group, and they chose to take advantage of it to begin to organize.

Accordingly, the late afternoon of the third day was given over to a caucus of the tribes and Keepers of the Treasures, without participation by NPS, ACHP, UNR, or Crow Canyon. The results of this caucus will doubtless become apparent as time goes by, but are not reported here.

## Appendix C: Some Historical, Cultural, and Political Issues Relevant to the Workshop

The results of the workshop reported here cannot be fully understood without some consideration of historical, cultural, and political realities among Indian tribes and their historic preservation programs; these realities fundamentally influence tribal approaches to preservation, and hence their training needs. The following five large issues comprised recurrent themes during the workshop.

1. Although there are broadly shared historic preservation concerns and needs among Indian tribes, there is certainly no uniformity of perspective. Different tribes have different interpretations of what needs preserving, what preservation means, what legal, social, and educational structures are useful in preserving what they seek to preserve, and how they can best relate to one another and to the Federal and state governments in carrying out their preservation responsibilities. Tribes also vary widely in the nature, organization, and maturity of their preservation programs. Since many reservations are the living places of multiple tribes, variation in approach may exist not only between reservations but within them. These aspects of variation were apparent in the workshop, though a substantial amount of agreement on issues of concern was also displayed. In terms of training needs, this variation means that there is no single curriculum that will fit all tribes. What is needed is a “menu” of training opportunities from which tribes can select what they feel is best for them. Different items on the menu could be offered by a variety of different training entities. The

organization of this report reflects this conclusion.

2. Training, like other aspects of interaction between tribes and non-tribal society, must be carried out with full respect for tribal sovereignty and the government-to-government relationship between tribes and the Federal government. Training must be developed and implemented with sensitivity to cultural differences and cultural values as defined by the tribes, and must be carried out in consultation with tribal governments and their cultural and preservation programs.

3. Tribes do not and will not regard themselves as passive recipients of training from non-tribal educational institutions and agencies. In fact, it is fair to say that there is a fairly active dislike for simply receiving training from others. Conversely, there is a strong desire for training to be provided by Native Americans, where possible through tribal or intertribal institutions and organizations.

4. NHPA authorizes tribes to take over SHPO functions within the exterior boundaries of their reservations, but there are factors that both narrow and broaden the scope of tribal preservation options and interests, and these must be recognized where applicable in training development.

On the one hand, the exterior boundaries of a reservation may include a good deal of land that is not held in trust for the tribe(s) that live there. The history of the reservation system has been characterized by periods during which the government sought explicitly to terminate the reservations and absorb Native Americans into the “larger” society, and by periods during which



reservation land passed out of tribal control without explicit government participation. Some reservations have embraced areas of non-tribally owned land since their creation, and the reservations of some tribes are literally “checker boarded” by tribal and non-tribal land. There may be land held in fee by tribal members as a result of allotment, or by others who have purchased land from tribal members. Whole non-Indian towns and cities in some cases exist within the exterior boundaries of reservations. As a result, the extent to which a tribe can control, manage, or protect historic properties within its reservation’s exterior boundaries varies widely depending on land ownership.

On the other hand, no reservation ever embraces all the land that is of cultural concern to the tribe(s) living on it. Ancestral lands always extend to vast areas beyond the reservation’s boundaries, or may even in the case of relocated tribes — be separated from the reservation by hundreds of miles. Ancestral living sites, burial places, traditional use areas, and sacred sites exist in such areas and are of great concern to tribes, but neither NHPA nor any other law gives tribes management authority over such sites. In some cases treaties executed between the tribe and the U.S. Government, in theory, guarantee tribal access to usual and accustomed use areas such as fishing and gathering sites; these treaties can be used to help control land uses that are injurious to tribal interests, including cultural interests. In other cases, a tribe may have no more legal right to protect its ancestral resources than does any other group. In such cases and even in many cases where treaties do afford elements of protection tribes must use the historic preservation laws and regulations in a different way than they do

within the reservation boundaries. The same tribe may be a THPO within its reservation, and an “interested party” that interacts with the SHPO and Federal agencies in addressing historic preservation concerns on other ancestral lands. Training needs to address both these roles

5. Finally, although the focus of the workshop was on tribal training needs, many of the participants’ greatest concerns were for providing training to others — notably Federal agencies and SHPOs — in the proper and respectful treatment of ancestral sites and objects, appropriate interaction with tribes, in understanding tribal history and culture, and in breaking down institutional and cultural barriers to effective cooperation.

At the same time, tribes need training in how to work with and educate Federal agencies. Both topics are addressed in this report.

## ENDNOTES

1. For detailed discussion of the range of tribal interests in cultural preservation, see *Keepers of the Treasures. Protecting Historic Properties and Cultural Traditions on Indian Lands*. National Park Service, Interagency Resources Division, Report to Congress 1990, Washington DC.
2. NPS was asked about whether one tribe could act as THPO for another under NHPA. This would be very useful especially for smaller tribes with limited land bases and finances. NPS representatives generally indicated that this should be possible Provided basic standards are met, a tribe can set up its program any way it wants to, and could probably do so by contracting with another, or with an intertribal consortium. However, the tribe, not the consortium, would have to be the applicant, and the arrangement would have to be for overall program functions, not for handling, say, Section 106 review of a particular project.
3. The cultural resources program of the Yurok Tribe, for example, works in database management for other tribal agencies because of its expertise in this field.
4. Ms. Bloomberg estimated that Section 106 work occupies about one-third of the time of Minnesota SHPO staff-- the nearly full-time efforts of one historian and one archeologist. Many reviews and requests for advice have 30-day turn-around times mandated by regulation Advising agencies about how to "navigate the process" also involves a good deal of time. Consultation on difficult cases involves numerous meetings as well as consultation by telephone. The staff also provides training for agencies, local governments, and others in how projects are reviewed both under Section 106 *and under Minnesota State law*.
5. The subject of identification and inventory maintenance was extensively discussed by the workshop participants. Ms. Bloomberg noted that the Minnesota SHPO in the past carried out a good deal of fieldwork, but now is mostly involved in inventory management The state inventory is divided into "historic structures" and "archeology" sections, overseen by the same people who handle the Section 106 work. There is also an inventory coordinator who has significant computer skills; this individual happens to be a professional archeologist, but this professional background is not necessary The SHPO has developed a survey manual which is recommended for use by others in the State and employed on the rare occasions when the SHPO is able to contract for identification work..

The Yurok Tribe is developing a computerized relational data base as the backbone of its inventory, structured to comport with traditional ways of viewing the landscape. The Tribe will share information on this very interesting system with other workshop participants as it is developed.

The Navajo Nation emphasizes a balance between professional and traditional training in individuals carrying out identification work. Language skills and knowledge of appropriate means of behavior and traditional ways of viewing the landscape are at least as important as training in archeology or another "mainstream" preservation profession. A team approach is often used because the necessary mix of skills is not always found in a single individual The level of detail employed in recording varies with the type of property; very little documentation is required for structures currently in use, for example.

6. Ms Bloomberg reported that in her State some 1400 properties are currently listed in the National Register, and that 25 to 30 are added each year Most nominations are prepared by contractors for the SHPO, by local governments, and sometimes by others, such as property owners. The National Register attracts

more public attention than any other aspect of the SHPO's program, accounting for about 500 public inquiries per year. The same two staff members handle the National Register program as oversee Section 106 and inventory work..

The workshop discussed the pros and cons of nomination at some length. The advantages of nomination include eligibility for certain federal and state grants and tax incentives (probably not very relevant to tribes), and for some private grants, as well as putting agencies and landowners on notice about the cultural significance of a property. General public recognition is also a rationale for nomination. Downsides of nomination include the need to reveal information that it may be culturally inappropriate and even dangerous to reveal, and the unanticipated public attention that a known National Register property may attract.

7. In Minnesota, Ms. Bloomberg indicated that planning activities are addressed in all-staff meetings one morning per month, and at an annual retreat, as well as in public meetings.

8. And cross-training with SHPOs and Federal agencies, who may be far less sophisticated in integrated land- and resource-management planning than are tribes.

9. The National Preservation Institute, for example, offers a class in historic preservation planning, but it is largely tailored to the needs of Federal installations such as military bases. While it could in theory be adapted to tribal needs, it would probably require a good deal of modification.

10. A question was raised about whether a tribe's reserved right to protect resources of importance to it, where provided for in treaty, establishes a basis for the tribe to act as THPO not only within the reservation boundaries but on ceded lands as well. This question cannot be answered without more research.

11. Participants mentioned recent meetings with NPS Park Superintendents and with the South Dakota Archeological Association as models of effective mutual learning.

12. Six of these were notified of final approval during the workshop. The program of a thirteenth tribe, the Tunica-Biloxi of Louisiana, was also given preliminary approval by NPS while the workshop was in progress.

13. Title: Culture Resources Protection: Training for Northern Nevada Tribes Description: The project is designed to provide training on key issues pertaining to the Tribe's efforts to protect and retain its cultural heritage. Training is provided to the tribe's Cultural Resources Coordinator and tribal members serving on its Cultural Advisory Committee as well as to interested representatives from six other Nevada Tribes working with the Washoe Tribe on cultural preservation and protection issues.