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**CULTURAL RESOURCE MANAGEMENT:
THE RISK OF COMPLIANCE**

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February 1994

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CULTURAL RESOURCE MANAGEMENT: THE RISK OF COMPLIANCE*

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ABSTRACT

The statutory mandate for federal agencies to involve American Indians in the management of cultural resources may create a cultural risk for the people those statutes are intended to protect. A conceptual framework is given to help understand this dilemma. Factors that can exacerbate the severity of the adverse cultural impacts for tribal people are also examined. Policy recommendations are offered for reducing tensions among all the participants in the statutory process.

1 INTRODUCTION

Passage of the National Historic Preservation Act (NHPA), the Archeological Resources Protection Act (ARPA), the American Indian Religious Freedom Act (AIRFA), and the Native American Graves Protection and Repatriation Act (NAGPRA) requires federal agencies to consult with American Indian tribes to consider their views when making federal land-use decisions. Through these acts, Congress has recognized American Indians as sovereign stakeholders in making policy decisions about the management of prehistoric, ethnohistoric, and historic cultural resources. Such resources include, but are not limited to,

* Work supported in part by the U.S. Department of Energy, Assistant Secretary for Environment, Safety and Health, under contract W-31-109-Eng-38.

archaeological sites, buildings, and structures; geographic landmarks; natural resources such as plants, animals, and minerals; and objects of religious importance or cultural patrimony.

The statutory mandate for federal agencies to involve American Indians in cultural resource management decisions can be viewed as a remedial action intended to correct omissions in the federal administrative process. However, American Indian tribes, families, and individuals have reported negative experiences associated with their participation in this process, which diminishes the effectiveness of the statutory benefits and creates another cultural cost or risk. It is ironic that a statutory process established to protect tribes may adversely affect them and create serious tensions among those involved in regulatory management of cultural resources.

From an academic perspective, anthropologists are often selected to implement and sometimes recommend federal policy for statutory compliance. Anthropologists are facing policy and regulatory tensions with increased frequency, although the basic problem has been recognized for more than a decade (Sprague 1974; Rosen 1980; Trigger 1980; Zimmerman 1989; Deloria 1992; McGuire 1992; and others).

An anthropologist who begins to work with federal agencies to develop a field strategy for compliance with the cultural resource statutes is likely to face a dilemma: How do you work in a professionally competent manner that remains sensitive to requests from a culture that may be different than your own? This paper provides a conceptual framework for understanding this dilemma and identifying strategies for improving the situation at a professional and policy level. Factors are identified that may perpetuate cross-cultural tensions as a manifestation of culturally relative perceived risks. The discussion of these factors reflects spoken and published statements by Indian peoples about themselves and their culture and puts this information into a systematic context that fits non-Indian academic and regulatory conceptual schemes.

Section 2 of this paper focuses on policy and procedural factors that limit the effectiveness of groups who interact in the federal compliance process (i.e., federal administrators, the courts, technical specialists, and American Indians). Section 3 identifies situational factors that have adversely affected American Indian tribes, families, and individuals as a result of their participation in statutory compliance studies. Section 4 addresses technical factors that can exacerbate the severity of adverse cultural impacts to tribal peoples. Section 5 provides conclusions and policy recommendations that address ways in which federal administrators can effectively interact with American Indians, thereby reducing tensions.

2 STATUTORY PARTICIPANTS

Four groups have helped to carry out compliance activities associated with various cultural resource management statutes: federal administrators, the courts, technical specialists, and American Indian tribes. Policy and procedural factors define the roles and responsibilities of each group, increase frustrations and tensions, and affect the overall effectiveness of coordinated decision making, which is pivotal in meeting the letter and spirit of existing statutes.

2.1 FEDERAL ADMINISTRATORS

Cultural resource statutes (e.g., NHPA and ARPA) must be complied with before federal administrators can initiate projects located on either (1) federally owned lands or (2) non-federally owned lands involving federally funded, licensed, or permitted understandings. Federal administrators typically see their role as getting projects through various compliance "hoops" within budget and ensuring that the studies can withstand a court test. Implementation of cultural resource compliance is considered to be part of the overall environmental compliance process. Implementation necessitates hiring technical

contractors, scheduling deliverables and associated documents, and consulting with American Indian tribes.

Cross-cultural tensions often result from the implementation of an agency's administrative processes. Historically, these processes, which are derived from agency-specific policies and procedures for meeting specific compliance responsibilities, have been developed and implemented by non-Indians and reflect a Western viewpoint and administrative system (McGuire 1992). The perception exists that "... whimsical agency administrators... work within their own personal agenda, and not for the preservation of any Native American archaeology.... Many government agency personnel shut out Native American inputs when developing their projects in number of ways..." (testimony of F. Brown in U.S. Senate 1992, p. 16).

Tensions mount because federal administrators are not bound by statute, federal policy, or regulation to adopt tribal recommendations but rather to demonstrate only that tribal opinions have been considered. The failure to implement tribal recommendations as part of the administrative process has led some tribal governments to initiate litigation to protect culturally sensitive sites (e.g., *Sequoyah v. Tennessee Valley Authority* [1980] and *Lyng v. Northwest Indian Cemetery Association* [1988]). As a result, tribal governments perceive the administrative process as unresponsive and failing to meet its mandate.

2.2 THE COURTS

The role of the courts is to establish and test the rules for meeting compliance requirements within the letter and spirit of the statutes. However, a conceptual difference exists between American Indians and Western cultures that is neither recognized by nor reflected in the precedents that form the decision-making basis for the U.S. court system.

First, the legal system lacks a means for understanding and protecting the spiritual relationship of a people to their sacred lands and sites because the legal system evolved from

a tradition alien from that of Indian culture (statement of C. Kimbol in U.S. Senate 1992, p. 21). When courts have addressed sacred and religious concerns, they have conceptualized religion and explored these concerns in terms of a Judeo-Christian tradition, where associated rituals and ceremonies "commemorate" sacred events in the past (Federal Agencies Task Force 1979, p. 8). The religious tradition from Western cultures contrasts with the rituals and ceremonies of tribal religions, which are seen as "continuing," that is, concerned with human beings renewing the continual process of creation (Federal Agencies Task Force 1979).

Second, in the courts, a judicial decision about a specific case establishes a precedent and is unilaterally applied in analogous situations. However, it is almost impossible to generalize about Indian cultures in the same way as is possible when describing Western societies because of the dissimilarities that exist among the numerous native cultures (Petoskey 1985).

Third, in the law, there is a non-Indian concept of linear time; laws separate the past and the present (Anyon 1991). Fowler (1986), Knudson (1986), and Trigger (1986) have discussed the statutory vagaries that surround cultural resource ownership. These vagaries are caused, in part, because of a lack of genetic identity or continuity extending from Indian remains to present-day Indians. This lack of identity is scientifically recognized by the dominant (non-Indian) society that establishes policies and defines prehistoric cultural sequences, but it cannot always be acceptably demonstrated to tribal governments. Legal, non-Indian definitions of past and present and of what constitutes a historic property can be perplexing to many Indians, who maintain a more holistic view of their cultural history and have different ideas about which places and objects continue to be part of their history, both past and present (Anyon 1991).

2.3 TECHNICAL SPECIALISTS

Given court precedents and explicit tasking specified by the federal administrators, technical specialists are contracted to conduct the required ethnographic and archaeological studies. Their role is to review the literature and conduct field studies to acquire archaeological and ethnographic data considered necessary for the administrative decision-making process. The *Code of Federal Regulations* (CFR), such as 36 CFR 800 and 36 CFR 61, defines the scope and content of individual studies, provides direction for assessing the relative significance of project impacts to physical places and objects, and determines the need for closure with other technical specialists in the offices of the State Historic Preservation Officer, U.S. Department of the Interior, and President's Advisory Council on Historic Preservation.

For a variety of reasons, tribal people are taking issue with these studies and the individuals who carry them out. First, the academic community has believed that they alone have the credentials to define and explain American Indians and that their conclusions should be accepted as definitive and conclusive (Deloria 1992). Second, many compliance studies do not include American Indians in the design, implementation, and interpretation of the field results (statement of C. Kimbol in U.S. Senate 1992, p. 22; McGuire 1992). Third, some agencies request tribal input about archaeological sites, but these agencies are unwilling to share this collected archaeological information with the tribes (statement of F. Brown in U.S. Senate 1992, p. 16). Finally, as a group, technical specialists are perceived to be motivated by career advancement and the "...vast financial and status rewards that the academic community bestows on its members..." (Deloria 1992).

2.4 AMERICAN INDIAN TRIBES

American Indians participate in federal decision-making processes by direct request to or invitation from federal administrators. Participation that goes beyond the exchange of

correspondence involving notification usually occurs through a designated tribal representative who attends meetings, transmits documents, coordinates site visits for tribal members and elders, and represents tribal interests and options endorsed by a tribal government.

Tensions develop because the views of many American Indian tribes may not clearly correspond with anthropological taxonomies, statutory language, and administrative boundaries reflected in the federal statutes (Anyon 1991; Jim 1992). Ownership of the cultural resources that remain on federal lands becomes an important issue because some Indian people feel that "...we never did give up ownership of cultural resources off the reservation" (National Park Service 1990). Indians find it frustrating to continually ask federal, state, and local governments not to destroy sacred sites and to grant access to Indian people to what they consider to be a part of their heritage. They find the process not only time-consuming and costly, but also degrading (testimony of F. Brown in U.S. Senate 1992, p. 16).

3 ADVERSE IMPACTS

When tribes participate in the cultural resource compliance process, tribal governments, traditional elders, and religious practitioners directly interact with technical specialists, federal administrators, and, in some cases, the courts. The subject matter of these interactions typically focuses on three areas: (1) identification and evaluation of cultural resource sites and cultural and natural places of importance; (2) access to traditional lands and resources; and (3) repatriation of human remains, associated or unassociated funerary objects, sacred objects, and objects of cultural patrimony. The goal of this process is to identify situations in which cultural resources and cultural and natural places of importance may be adversely impacted. Some situations can be clearly identified and partly

categorized as a result of a limited review of case studies. These situations include physical disturbance or destruction of sites and items, decreased quality of the natural setting, and diminished ritual values.

3.1 PHYSICAL DISTURBANCE OR DESTRUCTION TO SITES AND ITEMS

Places of importance to Native American groups may be destroyed or disturbed when remote areas are accessed for cultural resource field surveys conducted before starting a project. For example, visitors (including technical specialists and federal managers) may remove sacred objects from their intended locations (e.g., the offerings by Blackfeet tribal members on Chief Mountain, Montana, *News from Indian Country* 1991). Scientific mitigative investigations that are an integral part of compliance processes may disturb archaeological materials, including burial remains. Tourists and commercial collectors who become aware of the locations of cultural resources as a result of compliance activities may inappropriately display, loot and/or vandalize materials and sites (Deloria 1992; Hutt et al. 1992; testimony of C. Kimbol, p. 22; D. Old Elk, p. 349; and A. Slickpoo, p. 352 in U.S. Senate 1992). Nearly one-third of the known archaeological sites on federal lands in the Four Corners area (New Mexico, Colorado, Arizona, Utah) have already been looted, and the looters generally believe that they and the public have a right to the artifacts (Government Accounting Office 1987). Thus, the potential for adverse impacts associated with cultural resource identification studies may actually increase for the American Indian participants when they cooperate in federal compliance studies.

3.2 DECREASED QUALITY OF THE NATURAL SETTING

Inappropriate use of sensitive technical information involving Native Americans can lead to land-use conflicts that can disrupt the integrity of tribal traditions. For example, tourists and observers may appear at places when ritual solitude is mandated. In *Fools*

Crow v. Gullet (1982), roads and parking spaces defaced the land at Bear Butte in the Black Hills, South Dakota, and viewing platforms were constructed for tourists to watch sacred Indian rituals, which blatantly disrupted religious ceremonies. Moreover, the tribe involved was required to obtain a permit before conducting religious ceremonies, which, in turn, provided advance notice of their ceremonies to non-Indians who wished to observe. In another case, federal land managers in Wyoming required elders who desired access to a medicine wheel for ceremonial use to obtain permits and request that gates be unlocked (*Sho-Ban News* 1991). In this case, a member of the Northern Cheyenne tribe stated, "The government does not consider this a sacred site. They consider it a tourist trap" (*Sho-Ban News* 1991).

3.3 DIMINISHED RITUAL VALUES

Native American groups are particularly apprehensive about releasing intimate details of their religious beliefs and practices to strangers because the information may be exploited (Moore 1991). Exclusion is central to many ceremonies because participation is restricted to designated individuals determined by the nature of the ceremony: "Not only are non-Indians excluded from some tribal religious ceremonies, but unpurified Indians from outside the particular tribal traditions are excluded also" (Federal Agencies Task Force 1979). Inappropriate use of sensitive, sacred information by both participants and nonparticipants is felt to diminish the ritual values of the ceremonies. Three aspects of this situation are described below.

First, when anthropologists record and report observations on sacred activities for compliance purposes, unauthorized individuals may gain access to the information. Access to ritual items and information by inappropriate individuals in a nontribal context may be perceived as cultural exploitation, disrupting the natural order, adversely affecting spiritual power at a sacred place, or causing spiritual sickness (Moore 1991; Merenstein 1992;

Woody et al. [n.d.]). Representatives from the National Congress of American Indians reported a tribal concern of this type in regard to the U.S. Department of Energy (DOE) Office of Civilian Radioactive Waste Management access to proprietary information in DOE-funded studies (DOE 1987). In this case, the proprietary information involved the locations of ceremonial grounds (DOE 1987).

Second, some traditional tribal governments and individuals oppose the analytical process used by technical experts because it fragments cultural data to facilitate analysis and interpretation of social, psychological, and religious dimensions. They argue that the analytical approach is insensitive and that the meaning of the sacred phenomena will be lost or misunderstood (Suagee 1982; Deloria 1983). Sensitive information about beliefs and on-going spiritual experiences is transformed by the tenets of scientific materialism and is sometimes challenged by federal administrators and the courts. Deloria (1992) notes that "...conflict is probably inherent in the nature of the academic enterprise itself.. Whether there is sufficient proof of the Indian beliefs and experiences or not, it is a hazardous thing to assume without good cause that the Indians are lying or simply superstitious."

Third, some tribes are concerned about ownership of the data provided by tribal elders to the technical experts who author and publish reports. Some information given to anthropologists may be regarded as privileged tribal communication not to be divulged to outsiders (Beals 1969; Belshaw 1976; McGuire 1992). The issues of tribal versus individual rights and of proprietary versus public status of information are the focus of this concern, and the problem is exacerbated when the federal government provides the funds for the studies.

4 MAGNITUDE OF IMPACTS

At present, an assessment process is used to comply with multiple statutes that may stimulate inter- and intratribal conflicts and increase the magnitude or severity of the

situations discussed in Section 3. The NHPA requires a qualitative assessment for each cultural resource identified to determine its potential significance. The NAGPRA requires review of museological materials and assessment of the sacredness of objects selected for repatriation. The compliance process under NHPA, National Environmental Policy Act (NEPA), AIRFA, and ARPA involves another kind of assessment: determining the kind and magnitude of impacts to identified and evaluated resources. Sensitive cultural factors associated with the assessment process are discussed in the following sections.

4.1 COMPROMISE

For many American Indian individuals, families, and tribal governments, participation in the compliance process seems to require agreement with the position that some cultural resources have more cultural and religious value than that of others. As a consequence, less important cultural and natural resources are legally permitted to be mitigated through excavation, destruction, and/or land-use changes. In addition, some curated artifacts and collections in museums and repositories will not be repatriated.

Ranking the relative importance of religious sites and objects maybe a painful and foreign process that is imposed on tribal traditionalists as an inherent condition of participating in the assessment process. Stoffle et al. (1990) have observed this dilemma during a number of field studies involving western tribes. Among American Indians, the concept of "sacred" is conceptually embodied in all natural phenomena. It is viewed as a force in itself, and it calls for the harmonious integration of land and people (Deloria 1983). Some tribal peoples argue that they have compromised with the non-Indian world throughout history through treaties and relocation to reservations. Asking tribes to continue to compromise and approve the intentional destruction of sacred sites is viewed as asking too much (Holden 1993; Meyers 1993).

4.2 RELEASE OF PROPRIETARY INFORMATION

The greater the proportion of sacred versus secular information that is requested from spiritual leaders, the greater is the potential for diminishing tribal ritual values if the information is inappropriately used. Under the freedom of information requests, anyone outside the responsible land-managing agency can gain access to more recent information about sacred non-archaeological sites for any purpose, unless an agency-specific policy prevents access to proprietary information. Moreover, information compiled on sites and objects that are more than 100 years of age is not protected from federal administrators who may use this information inappropriately (Section 3). Decisions about land management and permits may emphasize the tourism value of sacred sites and rituals, thereby creating land-use conflicts. Non-tribal peoples may gain ritual proprietary information in a nonceremonial context. Technical specialists may request access to information on sacred places and objects from federal files, incorporate this information into academic databases, and, to the tribe's dismay, publish it in widely accessible sources.

4.3 THE BURDEN OF PROOF

Traditionalists and their medicine men make practical decisions on the basis of interactions with their spiritworld, including identification of sacred sites and objects, assessment of impacts from proposed federal projects, and recommendations for treatment of specific cultural resource sites and items, and animal and plant resources. Although federal policymaking and case law do not clearly define the treatment of information derived from spiritual sources, native peoples are increasingly asked to bear the burden of proof in substantiating their claims to non-Indian outsiders about sacred sites and objects and the spiritual dimensions of their culture. For example, Section 7 of NAGPRA states that lineal descendants or tribes can request the repatriation of human remains and funerary objects when cultural affiliation can be shown "...by a preponderance of evidence based upon

geographical kinship, biological, archaeological, anthropological, linguistic, folkloric, oral, traditional, historical, or other relevant information or expert opinion." Demonstrated evidence is the key to implementing NAGPRA and the other cultural resource statutes. It also forms the basis for the U.S. court system. Expert opinion is generally understood by federal agencies to mean academically trained persons with appropriate technical experience; it usually excludes from consideration Native American practitioners who lack formal academic credentials.

The knowledge of Native American practitioners may come from unwritten stories, songs, and statements that may be requested from tribal traditionalists, elders, medicine men, shamans, and other spiritual leaders. These individuals may acquire their information from a spiritual dimension during ceremonies, prayers, and other events that exclude non-Indians (Federal Agencies Task Force 1979; Zimmerman 1989). Therefore, some evidence is derived solely from the word of a spiritual leader, but it is not necessarily a personal opinion. This distinction is important if tribal representatives are asked to bear the burden of proof for what they say. The dilemma is that without this proof, some highly sensitive, cultural information is not easily accepted by federal administrators, the courts, and technical specialists.

5 SUMMARY AND CONCLUSION

Historically, the participation of American Indians in the cultural resource compliance process has, in their view, led to unacceptable consequences. In some cases, there is a loss of things that cultural resource preservation laws were intended to protect. These consequences include adverse impacts to sites, objects, places, and special activities as well as ranking the relative importance of unrankables so that those things determined to be of "lesser" importance can be altered or destroyed. Knowledge of past problems as well as

concerns about future risks are perpetuating tensions between Indians and the non-Indians who have administrative and technical roles in implementing complex statutory processes. Three factors contribute to this situation. First, policy and procedural factors result from the cultural distance that exists among federal administrators, the courts, technical specialists, and American Indians who interact because these policies and procedures were developed in concert with Western administrative and analytical conceptual systems. Second, situational factors, which are equated with adverse impacts that have occurred in the past, are perceived to continue in the future. Situational factors include (1) physical disturbance or destruction to historic, prehistoric, and ethnohistoric sites and items of cultural importance; (2) decreased quality of natural settings that possess sacred and religious importance; and (3) diminished ritual values within the culture when proprietary knowledge of the sacred is used in a non-tribal context or when it is analytically fragmented, misunderstood, and written about by non-Indian technical specialists. Third, cultural factors are viewed as a catalyst, which exacerbates the magnitude of the impacts when (1) negotiated compromises force Indian peoples to decide what cultural resources will be destroyed in order to save others; (2) sensitive information is released about the sacredness of sites and objects, and this proprietary information cannot be protected; and (3) the credibility of unwritten information provided by a spiritual leader through ceremony, vision, and prayer is challenged.

5.1 RISK-REDUCTION STRATEGIES

The three factors described above form a baseline for building categorical risk-reduction strategies, some of which are examined in this section. From a policy perspective, current risk perceptions are sufficient to warrant further consideration of why, when, and where existing policy revisions may be warranted to reduce real risks that occur on federal lands and adversely affect traditional cultures. Native Americans should be included on the teams commissioned to (1) develop new and revised policies and procedures;

(2) define the roles of participants in the compliance process; (3) implement risk studies; and (4) execute other project-specific cultural resource identification, evaluation, and repatriation studies. To ensure that the policies are more than public relations rhetoric, mechanisms must be put in place to audit and enforce accountability. Moore (1991) has proposed a strategy for tracking meaningful consultation with tribes. This strategy requires detailed recordkeeping to track the level of effort by officials to fully understand the ramifications of their decisions. This same strategy could be expanded to track compliance decisions with NEPA and other cultural resource compliance statutes. Enforcement provisions could be developed to supplement those in effect under ARPA, which is tied to a permitting system, and to parallel ARPA's importance to legislative history (Hutt et al. 1992).

The frequency of adverse situations can be reduced by changing the way current policy drives the participating groups who carry out environmental and cultural resource compliance processes. Sprague (1974), Trigger (1980), Deloria (1992), and others state that it is essential to reunite the participants in the cultural resource compliance process and to ask about and address the needs of Indian peoples. This change would require more than a compromise or an accommodation between disciplinary and cultural interests; it would require people to alter perceptions about the past, change the nature of interactions with Native Americans, train students in the new approaches, and present results to each other and the general public for discussion and improvement (McGuire 1992).

Participation must be met not only through the policy roles but through communication in which the views of each culture are accepted as being equally valid (Anyon 1991). Policy strategies for change might include the following:

- Consult with living cultural groups on a case-by-case basis, whether or not the consultation is required by statute, before undertaking projects that will result in collecting materials (human remains, funerary objects,

and sacred objects, etc.) or disturbing sacred sites, places, objects and resources, plants and animals, and petroglyphs (Goldstein and Kintigh 1990; Stoffle et al. 1990).

- Encourage cooperative efforts between archaeologists and interested Indians to rework and restate technical findings in terms that eliminate cultural bias and accurately summarize what is known. Provide tribes with copies of all archaeological reports on project lands (Stoffle et al. 1990; Deloria 1992).
- Hire Native American consultants as functional working members of all archaeological survey and/or excavation crews. Provide an opportunity for Native American consultants to prepare and issue separate reports on the activities with which they are involved (Stoffle et al. 1990)
- Improve the current situation in federal agencies by including cultural anthropologists in ongoing AIRFA policy creation and review processes (Moore 1992).
- Establish a conflict resolution process (Rogers and Grant 1991).
- Include mandatory cultural anthropology and sensitivity training by American Indians in the archaeological curriculum developed for the next generation of students.
- Target federal hirings to fulfill cultural resource management positions toward graduates from multidisciplinary anthropological programs and/or postgraduates who take or develop cross-disciplinary courses for the academic or contracting environments in which they work.
- Encourage federal agencies with land management responsibilities to develop better relationships with American Indians and new attitudes

about tribal involvement in the cultural resource compliance process by funding courses and workshops for federal administrators and technical specialists.

- Build performance and enforcement criteria and measures into agency-specific policies and procedures to ensure that administrators and managers fulfill their statutory and regulatory responsibilities.

Ameliorating factors that exacerbate adverse cultural impacts, particularly those that involve sacred dimensions of a culture, depend on interpersonal relationships among the participating parties. Trust plays a critical role in establishing and maintaining these relationships for a number of reasons.

First, religion is a private matter for tribes, families, and individuals who are sanctioned to share certain information with outsiders, even though they are reluctant to do so. "Destroy the trust that Indians have in place in you and your process, if they have any trust in the process, and you've lost them forever" (Moore 1992). McGuire (1992) argues that "...trust cannot be established in hit-and-run contract archaeology in which firms move where the money is instead of establishing long-term relations with specific groups of Indian people."

Anthropology students are taught to value trust in establishing relationships with traditional individuals. Trust comes from mutual respect, honesty, ethics, sincerity, and time. Trust requires an open dialogue that explores the nature of the compliance process. A number of important questions should be addressed on a case-specific basis:

- What physical places and objects are pivotal to the belief system of the tribal culture to ensure its continuation?
- What kinds of information and explanations must designated tribal cultural experts, elders, and religious practitioners provide about the

places and objects that are subjects of cultural resource studies required to meet statutory requirements?

- Do all participants, administrators, technical specialists, and Native Americans know how the tribal information will be used and by whom?
- What procedures are in place to protect the esoteric information provided by a tribe or designated individual?

Second, trust is also important at an intratribal level. Tribal members must have confidence in the spiritual leaders who participate in the compliance process and speak about sacred places and beliefs. These individuals may be involved because they are officially designated by the tribal government or because they are invited by outsiders or volunteers. In testimony before the Select Committee on Indian Affairs, Slickpoo proposed development of a clear definition of a "Native American practitioner" to provide protection from pseudo-Indian practitioners and discourage misrepresentations or distortions of Native cultural and religious values. The following definition was suggested: "...A Native American Practitioner shall be a person who, not only is recognized by his own tribe, but is recognized by a Native American traditional organization of a tribe or tribes participating in performing cultural, ceremonial or religious practices" (U.S. Senate 1992). Definitions deemed important by Native Americans (i.e., Native American practitioner) need to be clearly drafted to the mutual satisfaction of all parties and incorporated into statutes, regulations, and agency-specific guidance.

5.2 CONCLUSION

For American Indians, perceived risks to their cultural continuity begin with prior situations in which the risks have actually materialized, while the perception of the risk is a result of a social as well as a statutory process intended to protect traditional cultures. The most severe risks may be tied to both the access to a site/resource and the principle of

exclusion that drives the degree of sacredness and, hence, the intrinsic value of the information to both the Indian and non-Indian worlds. Perceived compliance risks involve potential damage to the integrity of religious sites; the contextual use of sacred objects; and the perpetuation of sacred customs, traditions, and power. The most sensitive risks involve resources that are deeply rooted in the value and belief systems that unite individuals under a tribal identity. While perceived risks may cross-cut tribal groups, it must be clearly understood that individual tribal values and beliefs remain unique. The strategies discussed earlier that can effectively preserve and protect sensitive resources require a non-ethnocentric process that equitably involves all participants and recognizes the sovereign standing held by individual tribal governments and the world view that they maintain.

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