

Characterizing Tribal Cultural Landscapes Volume I: Project Framework



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Yurok Tribe

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ABOUT THE COVER

Memorial Post at the mouth of the Salmon River in Oregon, honoring the Neschesne people and the village that stood there. Carved by Grand Ronde artist, Travis Stewart.

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List of Abbreviations and Acronyms

ACHP	Advisory Council on Historic Preservation
AIRFA	American Indian Religious Freedom Act
BOEM	Bureau of Ocean Energy Management
CEQ	Council on Environmental Quality
CLA	Cultural Landscape Approach
CTGR	Confederated Tribes of Grand Ronde
DAO	Departmental Administrative Order
DOC	Department of Commerce
DOI	Department of the Interior
EIS	Environmental Impact Statement
EO	Executive Order
MCL	Maritime Cultural Landscape
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPA	Marine Protected Area
NEPA	National Environmental Policy Act
NHO	Native Hawaiian Organization
NHPA	National Historic Preservation Act
NOAA	National Oceanic and Atmospheric Administration
NPS	National Park Service
NRHP	National Register of Historic Places
NRLI	National Register Landscape Initiative
OCS	Outer Continental Shelf
ONMS	Office of National Marine Sanctuaries
POCS	Pacific Outer Continental Shelf
SO	Secretarial Order
TCL	Tribal Cultural Landscape
TCP	Traditional Cultural Property
TEK/TK	Traditional Ecological Knowledge/ Traditional Knowledge
THPO	Tribal Historic Preservation Office/Officer
USBR	United States Bureau of Reclamation
USFS	United States Forest Service

1. Introduction

This project – Characterizing Tribal Cultural Landscapes – outlines a method for agencies to consult with tribes more effectively and appropriately in advance of any proposed undertakings. It also suggests a means for tribes and other indigenous communities¹ to relate their interests and concepts of landscape to federal agencies and other land and water management entities. The concept is rooted in a collaborative initiative related to offshore renewable energy development. This project was comprised of a team from the Bureau of Ocean Energy Management’s (BOEM) Pacific Outer Continental Shelf (POCS) Regional Office, the National Oceanic and Atmospheric Administration’s (NOAA) National Marine Protected Areas (MPA) Center and NOAA’s Office of National Marine Sanctuaries (ONMS), two independent Tribal Facilitators, and representatives from the Tribal Historic Preservation Offices (THPO) of the Makah Tribe of Washington, the Confederated Tribes of Grand Ronde Community of Oregon (CTGR), and the Yurok Tribe of California. The team worked collectively to develop a transferable best-practices method to identify areas of tribal use and significance that could be impacted by offshore renewable energy siting. Funding was provided by BOEM through an Interagency Agreement with ONMS.

This method, outlined in the Guidance Document (Guide) is intended to be useful for indigenous communities as well as agencies and project applicants. It does not represent an official policy for any federal agency; rather it is designed to outline a proactive approach for resource management agencies and indigenous communities to work together in order to identify areas of tribal significance that need to be considered in planning and management processes. An approach of this nature can ensure that tribal governments are involved and responsible for the identification and protection of resources of interest to them. It can also assist agencies in fulfilling their responsibilities under numerous laws and policies, including, for example:

- key provisions of the National Historic Preservation Act (NHPA):² Section 302706 of Title 54 [Section 101(d)(6)]; Section 306108 [Section 106] (and its implementing regulations, 36 C.F.R. 800); and Section 306101-306114 [Section 110];
- consultation under the National Environmental Policy Act (NEPA), particularly Sections 101 and 102;
- the American Indian Religious Freedom Act (AIRFA);
- Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) and Presidential Memorandum of November 5, 2009, and the subsequent Department of the Interior Secretarial Order (SO) 3317, and Department of Commerce (DOC) Departmental Administrative Order (DAO) 218-8;
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations);
- Secretarial Order No. 3330, Improving Mitigation Policies and Practices of the Department of Interior; and
- government-to-government consultations pertaining to other laws and policies.

Although federal agencies are only required to conduct government-to-government consultation with

¹ In this document, the phrase “tribe or indigenous community” is used to include all native tribes and native indigenous communities, regardless of recognition status. Recognition status does not impact these groups’ rights to self-determination, interests in ancestral territory and resources, or the validity of traditional knowledge and cultural practices. Throughout the rest of the document, the phrase may be shortened to “tribes” or “indigenous communities,” but the intent remains the same. See Appendix I: Glossary of Terms for further clarification.

² In 2014, the National Historic Preservation Act was recodified under Title 54 of the United States Code (54 U.S.C. § 300101 et seq.). Some frequently used provisions and processes may still be informally referred to by their former section numbers, including Section 106.

federally recognized tribes,³ the guidelines in this document are intended to apply broadly to indigenous peoples, and are critical and necessary for meaningful and effective engagement, consultation, and collaboration even when they are not required by policy or law. These guidelines are applicable to all indigenous communities “in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith” (UNDRIP 2008).

A key purpose of the Guide is to provide a basic method in which interests of an indigenous community can be recorded by that group, and summarized results and concerns can be applied in a culturally sensitive and relevant manner for use in planning and regulatory compliance by federal agencies. Using landscape⁴ as the unit of understanding ensures a full coverage of interest areas and an opportunity for presenting a holistic understanding of a place and its resources as related by affected tribal communities. The methods suggested here are predicated on an understanding and acknowledgement of indigenous communities’ rights to self-determination, recognitions, and legal protections. To that end, the sources of information and methods by which information is gathered must be defined by each indigenous group. Likewise, the area, format, and type of information provided to agencies must also be defined by tribes, recognizing that multiple tribes and groups may have an affiliation with a single place. This approach is intended to be transferable and adaptable to any tribal community that may wish to document its own significant resources and places, in order to improve effectiveness of agency consultation in the future.

Although opportunities for implementing this approach are likely to be affected by federal legislation and regulations, areas of applicability are likely to be shared by tribes and agencies. The Guide ultimately outlines a framework for implementation that is compatible with existing policy and regulations, illustrating the respective roles of agencies and tribes in the process. Finally, the Guide also provides definitions for terms and topics that can assist agencies, tribes, and project applicants in communicating more appropriately and effectively.

2. Goals and Objectives

The overarching goal of Characterizing Tribal Cultural Landscapes is to develop a proactive approach in working with indigenous communities in order to identify areas of tribal significance that need to be considered in planning and management processes. The model is intended to be transferable and adaptable to any tribal community that may wish to document their own significant resources and places, in order to improve effectiveness and appropriateness of agency consultation in the future.

The specific objectives of the project are to enhance ocean planning for offshore renewable energy development in U.S. waters by developing:

- 1) A tool that identifies best practices for tribes to identify and convey areas of significance;
- 2) Case studies from three West Coast tribes (one each in California, Oregon, and Washington) to demonstrate how to implement this tool.

As part of the project, each of the participating tribes hosted a facilitated workshop to ensure that tribes with a connection to the Pacific Ocean were provided an opportunity to contribute to the development of the methodology. Participants developed consistent terminology to facilitate better communication

³ A federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, in accord with the Federally Recognized Indian Tribe List Act of 1994. Additionally, a number of federal statutes, including NHPA, require federal agencies to consult with Native Hawaiian organizations.

⁴ This term encompasses areas with terrestrial, coastal, and offshore marine components, including related concepts such as seascapes and riverscapes.

between tribes and agencies about significant places and resources, and discussed concerns over potentially sensitive information.

The workshops provided information for the development of a Tribal Cultural Landscape Guidance Document (Guide), which illustrates how sensitive tribal landscape information can be sufficiently synthesized and made available for review by federal agencies during proposed actions or undertakings, while ensuring its protection and maintenance by the populations most closely connected to this information. The Guide is organized into the following sections:

- 1) Cultural Resources from an Indigenous Perspective
 - a) Guiding Principles of Self-Determination
 - b) A Cultural Landscape Approach for Integrated Resource Management
 - c) Tribal Cultural Landscapes
- 2) Culturally Sensitive Information
- 3) Implementing a TCL Approach
 - a) Guidelines for Tribal Pre-Consultation and Engagement
 - b) Template for Indigenous Data Collection and Retention
 - c) Process for Application

Included in this Final Report (but not included in the Guide) are the results from three independent case studies, which identify tribal cultural landscapes within pre-defined study areas. The case studies implement the project methodology specifically as it relates to Grand Ronde, Makah, and Yurok cultural knowledge and practice in their regions. The case studies:

- 1) Verify the tribally-defined process and identify and correct any problems in the proposed data collection, storage and sharing that may arise; discuss other standardization issues; and develop other recommendations for improvement.
- 2) Develop a tribal cultural landscape through a synthesis of historic records, ethnographic and ethnohistoric sources, oral traditions and histories, and summary of prior archaeological analyses.

This Final Report includes only non-confidential data and results of this project for BOEM use. The report is available to the public and includes a detailed discussion of all methodologies; outreach efforts (inter-tribal and intra-tribal); techniques; interpretations; analyses; non-sensitive data; and characterizations employed or generated in fulfillment of the project requirements. This report also includes the Guide. (<http://www.boem.gov/2015-047/> and sanctuaries.noaa.gov/tribal-landscapes).

3. Project Background

Spurred by the growing national interest in offshore renewable energy development, this project evolved at the intersection of three related study concepts: 1) Within ONMS, the MPA Center and the Maritime Heritage Program had been exploring opportunities to implement a cultural landscape approach and improve indigenous consultation; 2) BOEM's POCS Regional Office was trying to identify appropriate methods to properly engage tribes in the planning process for offshore renewable energy; and CTGR THPO was seeking funding to conduct a study in their ancestral territory that would accomplish these goals and create unique data products based on tribal resources and places. All three concepts share the foundational principle that indigenous peoples possess an intimate knowledge of places and resources, and that they should have the predominant voice in representing their own interests. All concepts also identified critical gaps in the tribal consultation process, and a greater need for agency recognition of tribal and indigenous knowledge related to coastal and marine resources. Funding was provided by the BOEM POCS Regional Office through an Interagency Agreement with NOAA, and administered through

the National Marine Sanctuary Foundation (NMSF).

Through discussions between BOEM, CTGR, and NOAA, a unified proposal was developed to meet these needs while simultaneously expanding the scale and scope originally envisioned. In an effort to make this project more widely applicable, two other federally recognized tribes were invited to participate based on these criteria:

- Each tribe's traditional and/or usual and accustomed areas include the coastal and offshore marine environment;
- Each tribe has an established historic preservation program;
- Each tribe has a dedicated Tribal Historic Preservation Officer (THPO); and
- The THPO has as an understanding of the cultural landscape approach.

Although the three participating tribes have these things in common, they are otherwise quite different from each other and employ distinct philosophies and approaches. The Yurok Tribe, as a cultural practice, conducts archaeological surveys but does not conduct archaeological excavations. By contrast, CTGR has an active survey and excavation program, and the Makah Tribe utilizes survey and excavation when necessary. All of these approaches are equally valid, and indeed the diversity represented in the case studies demonstrates the applicability of the TCL model to a wide range of indigenous communities. Furthermore, although all three tribes are federally recognized, they shared BOEM's and NOAA's desire to develop approaches and methods that would be useful to all types of indigenous communities, regardless of recognition status.

NOAA is uniquely positioned for this effort. The MPA Center, in collaboration with National MPA System partners, is tasked with implementing recent recommendations of the MPA Federal Advisory Committee (MPA FAC) regarding a cultural landscape approach, as well as cultural and tribal resources. From the 2011 white paper *Recommendations for Integrated Management Using a Cultural Landscape Approach in the National MPA System*, these recommendations include implementing a cultural landscape approach in the national system, explicitly recognizing the place-based authority and rights of tribal and indigenous peoples in establishing and managing MPAs. They also encourage development of best practices to bring together all available knowledge of cultural heritage resources, including the incorporation of tribal and indigenous sources (MPA FAC 2011). This project is a critical step in implementing these recommendations.

Within ONMS, the Maritime Heritage Program is currently working toward implementing a maritime cultural landscape (MCL) approach in the 14 sites of the Sanctuary System (Barr 2013). Additionally, the ONMS collaborates with indigenous cultures nationwide to enhance awareness of our nation's marine resources and maritime heritage.

4. Cultural Resources from an Indigenous Perspective

4.1 Guiding Principles of Self-Determination

Many of the project's guiding principles align with those in Linda Tuhiwai Smith's *Decolonizing Methodologies* (2012), which reinforce tribal sovereignty and self-determination. Smith articulates the process in which many indigenous peoples and their supporters are engaged via revitalization of indigenous cultures at all levels. The concept conveys the widespread effort to re-focus the standard interpretation of history and status quo to be more inclusive and less ethnocentric. These principles include but are not limited to:

1. Indigenous determination of research needs and priorities;
2. Indigenous articulation of the ways research should proceed;
3. Training of indigenous researchers and extending opportunities for indigenous peoples (Figure 1);
4. Discussion of culturally appropriate ethics, and ongoing development of culturally sympathetic methods;
5. Increased collaboration among tribes;
6. Tribal development and dissemination of literature on research;
7. Continued self-reflection, evaluation and critique of the community of indigenous researchers;
8. Education of the wider research and government community, including scientific, academic and policy communities regarding principles 1-7 above; and
9. Accountability to and outcomes for tribes.

Grounding the project as well as the TCL approach in these principles expands the scope and reach of potential benefits far beyond the stated objectives. Adopting this approach during undertakings and initiatives serves to strengthen tribal capacity in numerous ways, improve long-term relationships among agencies and tribes, and ultimately better preserve and protect shared resources and landscapes.



Figure 1. Archaeological field school on Makah Reservation, led by THPO.

4.2 A Cultural Landscape Approach for Integrated Resource Management

Federal agencies may not fully understand that indigenous people do not draw clear lines between the “natural” and “cultural” resources of a place. As a result, agencies may not adequately appreciate how this holistic perspective adversely impacts their capacity to address the complex issues of land management and regulatory undertakings. The TCL method uses a holistic cultural landscape approach (CLA), which

integrates environmental science with historical, archaeological, and traditional knowledge to provide a robust and cost-effective procedure to document places and resources of past and present significance to tribal communities. A cultural landscape approach recognizes that places and cultural heritage resources can have different or multiple meanings and levels of significance based on how people from different cultures, times, or backgrounds have interacted with the respective landscapes (MPA FAC 2011). Implementing this approach increases the likelihood that cultural heritage resources will be found, recognized, and appropriately considered as decisions are made about federal actions or undertakings.

CLA represents an opportunity to integrate management of natural and cultural resources, and to incorporate multiple voices and perspectives into procedures and practices. At its most basic, CLA is based on the understanding that humans are part of the landscape, both shaping and being shaped by it. CLA considers cultural heritage and resources as part of the ecosystem and the broader landscape, and examines relationships among all the resources of a place and their environment over time. In this way, CLA integrates management of cultural and natural resources at the ecosystem and landscape level – similar and analogous to ecosystem-based management. Significantly, CLA can identify past and living cultural voices associated with a landscape, helping ensure the fullest possible public engagement in planning and management (MPA FAC 2011).

Generally, an indigenous worldview recognizes broad interconnections and does not consider a single artifact or a single species as existing without complex relationships. This perspective places cultural resources within a contextualized mosaic of a landscape. For example, an archaeological site can have culturally significant plants and modified trees above ground (peeled bark, coppiced [pruned to encourage new growth], etc.), a lithic component (stone tools) underground, and possess a viewshed of an important cultural or spiritual location, such as a mountain. The complexity inherent in these types of places is understood by the communities that inhabit and interact with them. By contrast, many studies tend to focus solely on the archaeological components of a site, rendering the interpretation of the place incomplete. Over-emphasis on material culture skews the understanding of a location by narrowly focusing on artifacts and potentially obscuring its cultural context. Additionally, cultural resources have been damaged or lost because their meanings and connections with other resources found within the mosaic of cultural landscape have gone unrecognized.

Tribes and indigenous groups have an intimate and historical knowledge of place and should be engaged early to inform planning and future management. They hold a breadth and depth of understanding of the landscape to which they are connected. This knowledge reflects generations of engagement and interaction with the landscape. Indigenous peoples have long known that the interconnection between species ensures that management practices for particular resources influence the propagation and proliferation of other species. Additionally, geologic and seismic history may be held in oral tradition that guides and shapes settlement locations. The TCL approach recognizes that this information is valid and that it is held by tribal communities; the success of this process is therefore defined by participation of tribes and indigenous groups. The method provides tribal contextualization in a meaningful manner early in project processes, thus limiting delay and adverse impacts, and in turn reducing the need for mitigation measures.

The need for such a holistic process was clearly demonstrated in a recent case out of the 9th Circuit Court. In 2012, citing an earlier decision, the Court overturned a lower court decision and held that the U.S. Forest Service was required under the Endangered Species Act to consult with relevant wildlife agencies before permitting certain mining operations that “may affect” critical habitat of Coho salmon in the Klamath River. The Court added that any failure of the Forest Service to properly regulate could adversely harm the Karuk Tribe by impacting the Tribe’s “ability to enjoy the spiritual, religious, subsistence, recreational, wildlife, and aesthetic qualities of the areas affected by the mining operations” (Karuk Tribe of California v. United States Forest Service 2012). In this case, the inference is that living

species such as salmon can be contributing elements to cultural identity and therefore are a cultural resource as well as a natural resource.

Additionally, the U.S. Bureau of Reclamation (USBR) set a new precedent with a 2012 Finding of No Significant Impact (FONSI) for the Glen Canyon Dam Colorado River Storage Project “through a lengthy process of consultation and analysis to ensure that implementation [of non-native fish control measures] can take place in a manner that respects tribal perspectives” (USBR 2012:1). The Environmental Assessment concluded that the proposed action would adversely affect a number of traditional cultural properties (TCPs) of several Indian tribes, and USBR “determined that the taking of life associated with past non-native fish control efforts constitutes an adverse affect [sic] to these cultural properties under NHPA, and is of concern to these tribes” (USBR 2012:11, 14). In short, tribal views were incorporated in the decision-making process through consultation, leading USBR to determine fish to be a contributing element to the TCPs, which deserve impact mitigation. With findings such as these, and the persistent call by indigenous groups to seek a more inclusive method to identify areas and resources of concern to them, this study becomes imperative to develop a method to resolve issues arising from potential impacts to these types of resources.

A prime example of integrated management of natural and cultural resources, based on tribal consultation and collaboration, comes from Gifford Pinchot National Forest (USFS) in Washington. In recent years, USFS has worked closely with the Yakama Nation to revise the National Forest’s management practices, with particular regard to its fire prevention policy. Using traditional ecological knowledge (TEK) to manage the vegetation regime, USFS and the tribe deemed that strict fire prevention over time has impaired the integrity of the cultural landscape, as unhindered tree encroachment has inhibited the growth of berry patches critical to tribal cultural practices. With assistance from the Yakama Nation, in 2011 USFS reintroduced maintenance fires to restore the integrity of the cultural landscape and its berry patches. In this case, USFS recognized the validity of traditional knowledge, as well as the cultural value of the natural resource (McClure 2014).

Although the concept of CLA is not new (Sauer 1963; Westerdahl 1992), clear articulation of the process and pathways for implementation have been lacking, particularly regarding inclusion of tribal communities, resources, and places. The TCL approach outlined here can be used by indigenous communities to help recognize and record places and resources of cultural importance. It is intended to be transferable, and help tribes, agencies, and stakeholders to:

1. Properly engage with tribal and indigenous communities prior to the proposal of activities that may impact tribal resources and areas;
2. Involve tribal and indigenous communities in the identification of their own significant resources and areas of use; and
3. Clarify tribal interests in specific planning areas.

4.3 Tribal Cultural Landscapes

Archaeological sites, burial grounds and traditional use areas are imbued with special meaning to past and present indigenous communities. For these places, this connection is important for, and often inseparable from, a community’s cultural identity. Connection to place is a nearly universal concept held by indigenous groups throughout the United States and its territories, and is embodied in the tribal cultural landscape (TCL) definition developed during this project:

TRIBAL CULTURAL LANDSCAPE: Any place in which a relationship, past or present, exists between a spatial area, resource, and an associated group of indigenous people whose cultural practices, beliefs, or identity connects them to that place. A tribal cultural landscape is determined by and known to a culturally related group of indigenous people with relationships to that place.

This definition can create a platform for federally recognized tribes, Native Hawaiian Organizations, Alaska Native corporations, non-federally recognized tribes, state recognized tribes, and other indigenous communities to clearly articulate their connection to and interest in a given place. This concept allows potentially affected communities to provide context to agencies relevant to projects that may affect vitally important resources known only by indigenous groups. This definition is intended to be applicable to all indigenous groups and tribes.

Understanding the TCL is essential to the preservation and consideration of cultural resources during actions or undertakings such as planning for offshore renewable energy development. When agencies attempt to identify the potential impacts from their actions or undertakings, comprehensive information on the types and locations of tribal resources, including areas of tribal use and cultural significance, often does not exist in a useable form for analytical or planning purposes. Thus, as planning development for offshore renewable energy projects increases, so does the potential for impacts to coastal and marine sites important to indigenous communities, whether from bottom disturbance or obstructed viewsheds.

Specific relationships may vary from group to group and may be defined temporally or geographically through oral traditions and cultural practices (Figure 2). Some tribes relocated due to displacement or treaties, and may be extant today in places other than where they originated. Therefore, multiple tribes may hold knowledge and connections to the same place. These place-based connections, when viewed as a TCL, enable agencies and project applicants to understand the greater context of a place, the complexity of indigenous identity, and how indigenous communities identify places and important resources.



Figure 2. Yurok singing to Klamath River whale from canoe.

Three similar concepts already exist in historic preservation that are worth differentiating from TCLs. First, the National Register of Historic Places (NRHP, or National Register) provides Guidelines for Evaluating and Documenting Traditional Cultural Properties (TCPs). Second, NHPA legislation and Section 106 implementing regulations (36 C.F.R. 800) identify "historic properties of religious and cultural significance to Indian tribes and Native Hawaiian organizations." Third, the Secretary of the Interior's Treatment Standards provide Guidelines for the Treatment of Cultural Landscapes. TCL shares many characteristics of these three concepts and adds important elements, including processes for implementation, as well as ongoing adaptive management grounded in traditional knowledge.

Regarding TCPs, the NRHP has transitioned to using "places" rather than "properties," and future publications will reflect this change (B. Wyatt, personal communication, July 16, 2015). This is an important distinction, since "property" connotes one of the five categories that must be used for NRHP nominations – buildings, structures, sites, districts, and objects – while "place" is less restrictive and may be more suitable to indigenous communities. At the inception of this project, part of the impetus was to develop a concept more useful to tribes than TCPs. We have learned, however, that TCP designation does allow considerable flexibility. In fact, many in the historic preservation community are currently reexamining the utility of TCPs, and reaching the conclusion that they are "trapped in the cage of the National Register," meaning that the concept was intended to be flexible and democratic, and is more useful than many practitioners realize (Kaufman 2015). In other words, a TCP is defined by its significance to a community; it exists regardless of its eligibility for the National Register, which is only one avenue of historic preservation. Ultimately though, TCP designation is linked to the National Register, which can limit its use in consultations outside of the NHPA Section 106 process. Beyond the site-level definition, TCL also refers to a holistic approach, and the National Register is just one way TCL can be applied.

A key difference between TCPs and TCLs is that the latter are defined as significant by indigenous communities, rather than by exterior criteria. A TCP is usually a type of historic district or site that may be listed in the National Register that possesses traditional cultural significance, derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. A property may be eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. This project initially outlined some perceived shortcomings of the TCP concept which TCL would remedy, and then learned over the course of the project that these are largely issues arising from discrepancies in TCP guidelines versus application. Whether or not a TCP may be considered significant for National Register purposes is largely at the discretion of the nomination evaluator. Although our intent is not to provide guidelines for designating TCPs, below is a summary of these principal points, provided in the interest of sharing what we have learned (Table 1).

Table 1. Key points with clarifying details about Traditional Cultural Properties (TCPs)

Key Points About (TCPs)	Clarifying Details
Must have a defined boundary: traditional cultural significance is a layer of significance for a National Register property type (buildings, structures, sites, historic districts, objects).	Boundary requirement is flexible, as seen in the 2010 precedent of Nantucket Sound as a National Register-eligible TCP (as a bounded site) contributing to a larger district with undetermined boundaries.
Capability to convey geographically isolated designations whose significance is actually interconnected.	Discontiguous districts may incorporate numerous discrete bounded sites that are related to each other, but not adjoining. However, these tend to have an archaeological signature; discontiguous sites that are related by an intangible factor with no archaeological signature can be difficult to characterize using National Register criteria.
Must be important in maintaining the continuing cultural identity of a community.	It can be difficult for indigenous communities who have been displaced from their ancestral territory to demonstrate to an evaluator the importance of a place in continuing their cultural identity. It can also be difficult for agencies to recognize the continuity of the relationship.
The intangible beliefs or practices associated with a TCP are important in defining its significance. The relationship between the property and the beliefs or practices associated with it should be carefully considered, since it is the beliefs and practices that may give the property its significance and make it eligible for inclusion in the National Register (Parker and King 1990).	A property must not only be shown to be significant under the National Register criteria, but it also must have integrity. The National Register recognizes seven aspects that, in various combinations, define integrity. Two of these aspects are intangible: feeling and association. However, their retention alone is never sufficient to support eligibility of a property for the National Register (Andrus 2002).
Can include places important to non-indigenous communities.	Tribal Cultural Landscapes refer only to places important to tribal and indigenous communities, who have unique status and relationships with the Federal Government, ⁵ and/or environmental and public health concerns that may be different from other groups or from the general public.

TCP can refer to places of importance to any community, not just to indigenous communities. According to the Advisory Council on Historic Preservation (ACHP), “within the Section 106 process, the appropriate terminology for sites of importance to Indian tribes [and Native Hawaiian Organizations] is ‘historic property of religious and cultural significance to an Indian tribe [and Native Hawaiian Organizations (NHOs)]’. Unlike the term TCP, this phrase appears in NHPA and the Section 106 regulations. It applies (strictly) to tribal [and Native Hawaiian] sites, unlike the term TCP. Furthermore, Section 101(d)(6)(A) of the NHPA [Section 302706 of Title 54] reminds agencies that historic properties of religious and cultural significance to Indian tribes may be eligible for the National Register. Thus, it is not necessary to use the term TCP when considering whether a site with significance to a tribe is eligible

⁵ Only federally recognized tribes have unique status and relationships with the Federal Government, but according to the principles of UNDRIP, all indigenous peoples possess inherent rights which derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, and philosophies, especially their rights to their lands, territories, and resources (UNDRIP 2008).

for the National Register as part of the Section 106 process” (ACHP 2008:19 and ACHP 2011a:14). Section 101(d)(6)(B) of the NHPA [Section 302706 of Title 54] instructs federal agencies to consult with tribes and NHOs in identifying such properties. TCL carries the same meaning and utility as this phrase, and it encompasses indigenous communities more inclusively. Importantly, it is also a holistic pre-consultation approach not limited to the Section 106 process.

Cultural landscape is another useful and appropriate concept for tribes. The National Register currently does not provide a definition of cultural landscape, and criteria for evaluating significance are therefore lacking. Typically, landscapes are nominated to the NRHP as districts or sites, which must also have a defined boundary. However, in 2010, the determination of Nantucket Sound as eligible for the NRHP set new precedent. The Sound was determined eligible as a TCP “and as an historic and archaeological property associated with and that has yielded and has the potential to yield important information about the Native American exploration and settlement of Cape Cod and the Islands” (Shull 2010:2). The Sound was ruled to be a site with a defined boundary, which is also a contributing feature of a larger district and “culturally significant landscape” whose boundary definition would require additional documentation. For any such district to be protected, its boundaries must be identified. In the meantime, this unprecedented use of NRHP standards and criteria reveals the under-used flexibility of the NRHP and TCPs.

The Secretary of the Interior’s Guidelines for the Treatment of Cultural Landscapes define a cultural landscape as a “geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values” (Birnbaum and Peters 1996:4). There are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes. Historic vernacular landscapes “*evolved through use by the people whose activities or occupancy shaped them,*” and ethnographic landscapes “*contain a variety of natural and cultural resources that associated people define as heritage resources*” [italics added for emphasis] (Birnbaum and Peters 1996:4). Both aspects in italics are critical parts of the TCL definition.

Recently, NPS has undertaken initiatives to better engage tribal communities in identifying and categorizing cultural landscapes.⁶ The TCL approach not only emphasizes these two key aspects of the concept—shaping of the landscape by people, and indigenous self-determination of significance—but also emphasizes ongoing adaptive management grounded in traditional knowledge, and includes processes for implementation, delineating clear roles for both tribes and agencies in planning and management.

In this way, TCL also refers to a holistic approach beyond the site-level definition. Typically, NHPA and NEPA are applied on a project basis, because an action or undertaking is proposed, with a major goal being determination of eligibility to the National Register of Historic Places. TCL starts broadly with tribes determining important places and resources, and being equipped to represent their interests in potential actions or undertakings. The approach is grounded in tribal sovereignty and self-determined epistemology. Agencies and project applicants can derive process value from pre-consultation and planning, which in turn has the potential to help NHPA and NEPA processes and tribal consultation.

In response to “an increasing number of Section 106 reviews involving large scale historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations (NHOs),” combined with increasing development pressures and the lack of existing guidance on cultural landscapes, ACHP released the Native American Traditional Cultural Landscapes Action Plan (ACHP 2011b:1). The plan

⁶ Examples include revising National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties, the National Register Landscape Initiative, and the work of the Indigenous Cultural Landscape team.

contains two sets of action items: the first set focuses on raising awareness about the existence and importance of traditional cultural landscapes to ensure that they are considered early in land management and project planning decisions; the second set of action items focuses on the Section 106 process as well as NEPA reviews, and the development of tools to assist all participants in the recognition and consideration of Native American traditional cultural landscapes. TCL can help fulfill both sets of these goals.

5. Culturally Sensitive Information

Traditional Knowledge (TK) may be privileged or otherwise controlled or regulated by cultural constraints within a tribe. Although the term traditional ecological knowledge is commonly used (USFS 2011, USFWS 2014, Anderson 2015), we use the term traditional knowledge synonymously, to avoid reinforcing the non-existent divide between cultural and natural resources. The non-native definition of TK is “a cumulative body of knowledge, practice and belief evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment” (USFS 2011:1).

In general, indigenous ways of knowing about the environment may differ fundamentally from those of most non-native or industrialized societies. The non-native paradigm places humans at the top of a hierarchy of nature, implying that humans are separate from the environment. This can lead to the treatment of other living things as resources to be used to meet human needs, wants, and desires. Generally, the indigenous paradigm regards humans as an integral and inseparable part of nature, with a continuous duty of care for its sustainability. Indeed, Gisele Martin of Tla-o-qui-aht First Nation in Canada goes as far as portraying English as an invasive language, with words such as “resources,” “stewardship,” and “management” that do not have a translation into Tla-o-qui-aht, one of many indigenous languages. Martin explains that, “our language has no word for ‘environment’; the closest is 'tiicmis', a word meaning ‘force that keeps us alive’” (Martin 2015).

As viewed by indigenous peoples, traditional knowledge is a cultural resource belonging to or associated specifically with an individual or a group. It may not be common or public property to be shared outside the tribe.⁷ The disposition of information about tribes, their past and present lifeways, and cultural practices is of paramount importance in negotiating consultation and project protocols.

The traditional cultural significance of a historic property is derived from the role the property plays in a community's historically rooted beliefs, customs, and practices (Parker and King 1990). Some types of tribal information may be culturally privileged or otherwise controlled or regulated, often by gender, age, or cultural norms. Hence sharing knowledge with non-tribal members may be contrary to tribal practices. According to guidelines of the National Register of Historic Places, "culture" is understood to mean the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community (Parker and King 1990). The sharing of knowledge of any of these types of information may be restricted to within the tribe. Tribal culture, in general terms, is uniquely and inextricably tied to place; any of the cultural components listed above may also imbue a place with special meaning. Examples of such locations include:

- A location associated with the traditional beliefs of a Native American group about its origins or cultural history, or the nature of the world.

⁷ Section 300101 of Title 54 [Section 304 of NHPA] provides protection from public disclosure of information about the location, character, or ownership of a NRHP-eligible resource, if disclosure may cause a significant invasion of privacy, risk harm to the resources, or impede traditional religious practice at a site (54 U.S.C. § 300101 et seq.).

- A location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice.
- A location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.
- A location that is intentionally avoided by an indigenous community, for example, because of its association with certain traditions, events, or revered beings/powers.

Each tribe is unique, influenced by its local environment, as is its traditional knowledge. Agencies' scientific and resource management responsibilities can be greatly enriched through the incorporation of TK. At a tribe's discretion, TK may be shared through the consultation process, as well as through less formal collaboration. These interactions can help agency staff identify tribal individuals who hold TK, as well as the opportunities to ask whether and how TK may be shared.

A review of U.S. and international intellectual property law finds that although binding and enforceable, such laws "usually are not applicable to traditional knowledge given its intergenerational, communal nature" (Brewer and Kronk Warner 2015:41). Furthermore, other sources of non-binding law (such as the internationally recognized right to self-determination) may protect TK, but are not enforceable in the U.S.

Culturally sensitive information may sometimes be publicly available. However, respect for the nature of this information must be demonstrated when consulting with tribes (Figure 2). It will not always be possible to know in advance what type of information is culturally sensitive, and tribes will not necessarily be willing or permitted to speak of such information to agency representatives. While this poses challenges, awareness that there is likely to be culturally sensitive information, and respect for the privileged nature of this information, will help foster productive relationships with tribes (NOAA 2013).

A multiagency Memorandum of Understanding "Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites" calls for the signatory agencies to develop "recommendations for addressing challenges regarding confidentiality" (Sacred Sites MOU 2012:2). "One way to address confidentiality concerns is for contracts [or agreements] with tribes to treat documentation generated by a tribe as its intellectual property, in recognition, as provided in Article 31 of the Declaration [UNDRIP], that tribes 'have the right to maintain, control, protect and develop their intellectual property over [their] cultural heritage, traditional knowledge and traditional cultural expressions'" (Suagee and Bungart 2013:5). In developing the TCL project, BOEM and NOAA deliberately stipulated in all fundamental agreement documents and contracts that control over cultural information would remain with individual tribal partners. The project team incorporated confidentiality language into both the Interagency Agreement and the contracts.

6. Implementing a TCL Approach

The TCL approach consists of guidance for agencies and project applicants as well as tribes. The *Guidelines for Tribal Pre-Consultation and Engagement* are multipurpose: they are intended to assist agencies and applicants consulting with tribes for specific proposed undertakings, as well as to model a holistic approach to building positive long-term relationships among agencies and tribes who may need to work together over generations. The *Template for Indigenous Data Collection and Retention* outlines a method for tribes to collect and retain information from which appropriate summary results can be provided to external parties. This part of the TCL approach is recommended in advance of any proposed undertakings, similar to the inventory requirement of Section 110 of NHPA (54 U.S.C. §306102). Although not included in the Guide for brevity's sake, we include here an overview of key provisions in existing law and policy, pertinent to implementation. Finally, the *Process for Application* illustrates a

stepwise approach for applying TCL within this policy, and the potential benefits for both land management and planning, and regulatory processes.

6.1 Guidelines for Tribal Pre-Consultation and Engagement

From its inception, the Tribal Cultural Landscapes Project has presented an intersection between the worldviews of the two sponsoring federal resource management agencies—NOAA and BOEM—and of the three participating tribes—The Confederated Tribes of Grand Ronde, the Yurok Tribe and the Makah Tribe. In order to develop the project and achieve its stated outcomes, the parties first established trust among themselves by negotiating protocols to guide the work in mutually satisfactory steps that would meet legal requirements as well as accurately serve the interests of each party.

Additionally, the design of the project inherently fostered the need to construct flexible protocols that would allow each tribe to implement its own contribution with due consideration of project resources and procedural fairness. The protocols proved sufficiently flexible to support the collaboration with three separate tribes, each with distinct treaty arrangements, varied formal and informal tribal governance structures, and unique views of their cultural legacies and methods for protecting them.

Synthesized and adapted from existing federal agency consultation guidelines (NRCS 2009; USFWS 2011; NOAA 2013), the following recommendations are best practices that should be followed by agencies and potential project applicants. They are intended to enhance the government-to-government consultation process, not to replace it.

In addition to these pre-consultation guidelines, the TCL project team took extra steps toward building constructive relationships, a critical factor in achieving project objectives. The TCL team was fortunate to have resources and agency support to enable these additional measures, and appreciates that not all potential project applicants may have the leeway to conduct these steps as thoroughly. However, these procedures should be followed as much as possible, since they are critical and necessary for meaningful and effective engagement, consultation, and collaboration even when not required by policy or law.

6.1.1 Do Your Homework:

As much as possible, information about a tribe should come from that tribe.

1. **Research the tribe's culture.** “Culture” comprises how a group’s worldview influences their behavior. This includes a tribe’s governance structure, food preferences, spiritual practices, natural resource values, wealth, family structure, education system, etc.
2. **Research the history of the tribe and its current and historical relationship to the Federal Government.** Books, tribal newspapers, websites, and other documents can provide information on the tribe’s historical relationship with the Federal government. It is important to be aware of any relevant conflicts, wars, treaties, executive orders, case law, and statutes, and how these have evolved over the years.
3. **Understand what is and what is not appropriate within tribal culture.** Observation, reading, and discussions with designated tribal officials can provide pertinent information about the tribal culture and help minimize cultural missteps. An initial phone call to a tribal point of contact (such as THPO, Executive Director, etc.) can provide a better opportunity for introductions and can help lay the groundwork for an initial formal meeting. Be aware of the tribe’s decision-making process: not all tribes use the same process to make decisions. In meetings, be aware of protocols related to prayer, food, and gift-giving, and be prepared to act accordingly.

4. **Understand the tribal perceptions of time and allow enough time to form ongoing relationships.** Perceptions of time vary across cultures. The agency time rhythm is typically based on non-native culture which may differ from a tribe’s time rhythm. Agency staff should be aware of differences and work to accommodate tribal schedules when time horizons seem to be out of sync. Likewise, agency staff should be clear with tribal contacts about any exigent circumstances driving the agency’s timing for action. It may also be important to consider subsistence and ceremonial schedules, preparation times, and funerary rites and grieving periods before consultation begins.

6.1.2 Project Planning:

5. **Budget resources and time for building relationships before decisions are made.** Establish the formal and informal preliminary contacts and the appropriate authorities needed for proceeding. In many federal-tribal interactions, this phase is typically overlooked in the formation of working relationships. Take time to assess and define roles, organizational attributes, and explicit procedures.
6. **Work toward building tribal capacity.** Building institutional capacity should be a fundamental goal of potential projects within not only the office of the THPO and the tribal government, but also among the entire tribal community and the tribe’s cultural and natural resource departments, and other partners.⁸ As an example, funding for the TCL project accounted for necessary staffing, logistics, and supplies, as well as ongoing technical assistance necessary for the completion of the project; each tribe determined its own needs, negotiated the terms of its contract, and managed its allocated funds.
7. **Construct flexible protocols.** The protocols should allow tribes to implement their own contributions with due consideration of project resources and procedural fairness, as well as consider tribes’ distinct treaty arrangements, varied formal and informal tribal governance structures, and unique views of their cultural legacies and methods for protecting them. A method to accomplish this is to begin to construct ground rules for the process and any associated meetings. (see Appendix III “Procedural Specifics to Consider”)
8. **Establish procedural neutrality when conducting meetings and workshops.** Independent facilitators, personally and professionally qualified by their experience with tribes, non-tribal governments and indigenous cultures, should be included as members of the project team in order to guide the process and facilitate meetings and workshops.

6.1.3 Consultation and Collaboration:

9. **Understand tribal authority and representation.** In any situation, understanding both formal and informal authority is profoundly important. Representation and authority can be nested in many

⁸ The Historic Preservation Fund (HPF) provides annually-appropriated funding to tribes having an approved Tribal Historic Preservation Officer (THPO) to assist THPOs in executing their tribe’s historic preservation programs and activities pursuant to NHPA and other relevant laws. Federal agencies should understand that the amount of annual appropriations for the HPF can strongly affect the capacity of THPOs, and also that tribes with no THPO and non-federally-recognized tribes do not receive these funds. Tribes and agencies should work together to develop alternative means of funding the required research and management of the information. “One way to engage a tribe early in the planning process is to pay for the tribe’s help in identifying historic properties. As explained in the ACHP Handbook [Consultation with Indian Tribes in the Section 106 Review Process], it is perfectly appropriate for an agency or applicant to pay a tribe for providing ‘specific information and documentation regarding . . . individual sites, or . . . to request that a survey be conducted by the tribe. In doing so, the agency or applicant is essentially asking the tribe to fulfill the duties of the agency in a role similar to that of a consultant or contractor’ (ACHP Handbook 2012:13). The Sacred Sites MOU calls for the signatory agencies to identify ‘contracting mechanisms for obtaining tribal expertise’” (Sacred Sites MOU 2012:3, as cited in Suagee and Bungart 2013:5).

layers: Who speaks for “culture”? Who speaks with the legitimate authority of government? Who possesses culturally-appropriate credentials, whether from the culture of academe or the culture of an oral tradition? Who speaks for the past or the future?

10. **Respect tribal sovereignty, self-determination, and protocols.** Tribes must have discretionary control over their means of reaching desired outcomes according to their own cultural values and norms.
11. **Respect tribal representation of tribal interests and practices.** Tribal governments, tribally-recognized experts, and a tribe's view of itself as well as of its past, present and future, all legitimately represent a tribe's interests. Tribes and their THPOs, or a tribally appointed cultural officer, can best identify and define the authority of information sources from among elders, community members, oral histories, primary and secondary literature sources, academically trained tribal staff, consultants and other sources. Accordingly, each tribe has the discretion to collect and manage its data according to its own standards and appropriate practices.
12. **Keep agency leadership (or funding organization) apprised of developments (if they are not actively involved in the process).** Agency representatives, often severely limited in their personal discretionary authority, need immediate and frequent access to managers, legal personnel, policy experts and signatory authorities. Decision-makers should be regularly briefed on project status, progress, and potential concerns.
13. **Adapt current information in light of new information from tribes.** The engagement process should be refined when tribal members and affiliates present information not typically used by agencies in decision-making. When tribal members and affiliates present divergent information to agencies, agency representatives should seek to clarify the divergent information with the governing body of the tribe.

6.2 Template for Indigenous Data Collection and Retention

In the TCL Project, each of the three participating tribal communities conducted case studies to demonstrate how this process could be used to identify tribal cultural landscapes (Volume II of this report). The target study areas focused on the landscapes within the ceded and aboriginal homelands of each of the representative tribes and incorporated coastal and marine areas that could be impacted by offshore renewable energy development. The case studies focused on areas that include coastal land-based and offshore areas of tribal significance. Each case study incorporated an area of at least 6,000 acres (2,428 hectares) and was determined in coordination with the BOEM Project Officer.

The tribes began their case studies with Traditional Cultural Property (TCP) and Traditional Knowledge (TK) analyses of tribal sites and resources within representative tribal regions. The types of cultural resource information identified included TCPs, information related to traditional gathering, hunting, fishing and other subsistence and commerce activities, as well as those related to spiritual and ceremonial sites and activities. The tribes conducted such project activities as archival research, field investigations and visits to select type-sites, community outreach, the selection of oral history candidates, collection and transcription of oral histories, and development of draft and final reports.

The various intra-tribal outreach activities were decided upon by participating THPOs and included meetings with tribal members to identify potential TCPs, TK, cultural use sites and use activities within the defined study areas. When appropriate, notices and surveys were also placed in tribal newsletters/newspapers, and mailings sent to tribal member households. Outreach activities were also conducted in roundtable discussions, open houses, and presentations to elders.

Data collected and analyzed by each tribe is retained by each tribe. Case study information that tribes conveyed to BOEM and NOAA was at the discretion of each tribe, and represents the minimum amount of information needed. The following template provides a method for tribes to collect and hold information that can be queried internally, with the ability to provide summary results to external parties (Figure 3). These broad steps outline the general activities undertaken by each TCL project team tribe during their case studies.

This template is not intended as a detailed instructional manual, but should be adapted by individual tribes undertaking the process. The method can help set benchmarks and provide conversation points between agencies, applicants, and tribes.

The steps for indigenous data collection are as follows:

1. **Conceptualization:** Tribe identifies an objective or research question, then determines types of information to be collected and analyzed, formats for recording and processing, and ways to ensure security and access. Tribe may also identify format for presentation and discuss future applicability of data.
2. **Data Acquisition:** This can be an ongoing process; tribe determines data standards and attributes, and gathers and stores information. . Tribe gathers and stores information according to its individual tribal access policy.
3. **Geo-reference:** This analysis step includes boundaries (if applicable), data layer development, data linkage and cleaning, and document verification.
4. **Synthesis:** This analysis step can include information on—and illuminate linkages between—place, activities, traditional ecological knowledge (TEK), context, and ultimately cultural understanding.
5. **Presentation:** At the sole discretion of tribe; tribe may choose present any of the above findings via public presentations including non-sensitive data, maps and GIS data layers, field visits, and written and oral reports.

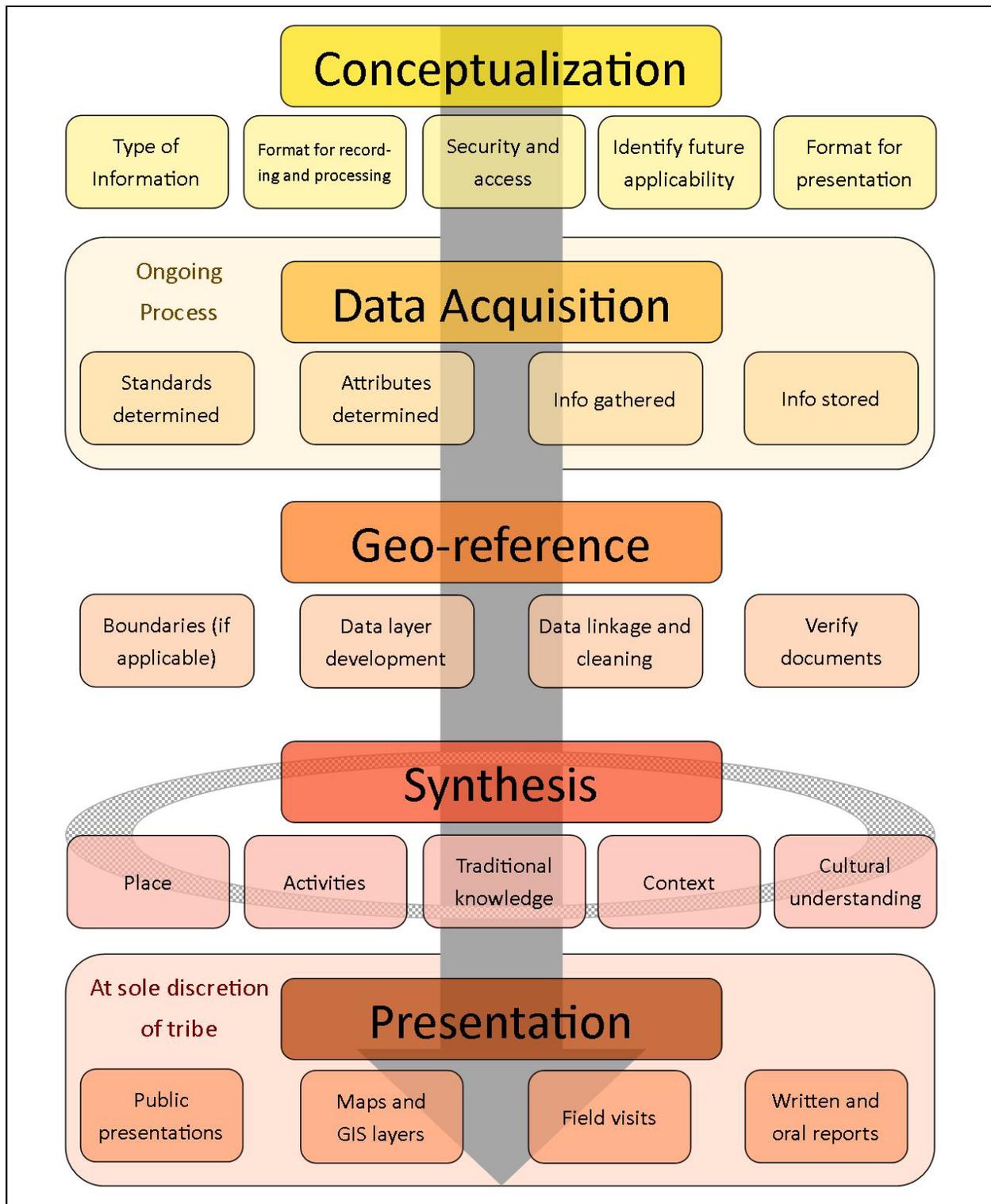


Figure 3. Template for Indigenous Data Collection and Retention.

This process provides a method for tribes to collect and hold information that can be queried internally, with the ability to provide summary results to external parties.

6.3 Implementation within Existing Policy Framework

In order to be effective and beneficial to tribes and agencies, the methodology needs to be readily applicable under existing legislation and regulations. TCL can therefore assist agencies in fulfilling their responsibilities under numerous laws and policies, including:

- key provisions of the National Historic Preservation Act (NHPA): Section 302706 of Title 54 [Section 101(d)(6)]; Section 306108 [Section 106] (and its implementing regulations, 36 C.F.R. 800); and Section 306101-306114 [Section 110];
- consultation under the National Environmental Policy Act (NEPA), particularly Sections 101 and 102;
- the American Indian Religious Freedom Act (AIRFA);
- Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) and Presidential Memorandum of November 5, 2009, and the subsequent Department of the Interior Secretarial Order (SO) 3317, and Department of Commerce Departmental Administrative Order (DAO) 218-8;
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations);
- Secretarial Order No. 3330, Improving Mitigation Policies and Practices of the Department of Interior; and
- government-to-government consultations pertaining to other laws and policies.

Excerpts from pertinent sections of these laws and policies are included in Appendix II.

6.3.1 National Historic Preservation Act (NHPA)

Section 302706 of Title 54 [Section 101(d)(6)] indicates that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register, and that federal agencies shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such a property. Section 306108 [Section 106] (and its implementing regulations, 36 C.F.R. 800) requires that federal agencies take into account the effect of federal undertakings on any historic property, and afford the ACHP a reasonable opportunity to comment. Section 306101-306114 [Section 110] instructs federal agencies to implement a program for preservation of the historic resources within their purview, which shall include an agency preservation officer and inventory of resources, among other provisions.

The TCL approach has the potential to assist holistically with these requirements: involving indigenous communities directly in the identification of sites of religious and cultural importance, conducting proactive consultation in advance of any proposed undertakings, and increasing both agency and tribal capacity to inventory and characterize resources and places. Additionally, the TCL approach is designed to complement and improve the Section 106 process, as illustrated below in the *Process for Application*.

While NHPA does not explicitly mandate consideration of natural resources, its requirements can enable consideration of natural/cultural interrelationships whose inclusion in the Section 106 evaluation process can alleviate potential issues that may arise further along in projects.

6.3.2 National Environmental Policy Act (NEPA)

The TCL model has particular relevance to the NEPA process under Section 101(4) regarding “historic, cultural, and natural aspects of our national heritage.” The methodology also addresses the Section

102(A) requirement for “a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences,” as well as the Section 102(B) requirement to “identify and develop methods and procedures...which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making.” TCL is fundamentally an integrated approach and a new method for assessing the full spectrum of ecosystem values.

Under Section 102(C) requiring a detailed statement on potential environmental impacts, the results of TCL studies, can be used by agencies to streamline pre-planning, planning, and regulatory actions related to identification of areas and interests valued by indigenous groups.

NEPA is also regularly used to facilitate consideration of other laws such as the NHPA. The ability for NEPA to include multi-disciplinary research that meets the goals of the law allows TCL studies to address multiple concerns and communities that may be affected by a proposed action. Indeed, TCL studies can be useful for agencies in developing a meaningful understanding of the indigenous groups in their area, as well as in developing effective tools for planning and conducting projects to ensure their timely completion.

In fact, the Council on Environmental Quality (CEQ) and ACHP have jointly published *A Handbook for Integrating NEPA and Section 106* to help agencies conduct these review processes together, increasing efficiency and effectiveness (2013). Although requirements to conduct both processes are not new, agencies commonly conduct one or the other, or both in isolation of each other. “NEPA and NHPA are statutory requirements that can be waived only by specific provision in an Act of Congress. Unless a waiver has been authorized in legislation, the administrative record for each Federal project or program should document compliance with NEPA and NHPA” (CEQ and ACHP 2013:11). Integrating these analyses enables places and their associated cultural resources and species of cultural concern to be recognized.

6.3.3 American Indian Religious Freedom Act of 1978 (AIRFA)

AIRFA affirms the right of American Indians to have access to their sacred places. If a place of religious importance to American Indians may be affected by an action or undertaking, AIRFA promotes consultation with Indian religious practitioners. The interface between AIRFA and NHPA is best embodied in Section 302706 [Section 101(d)(6)], specifying that such sites may be eligible for inclusion on the National Register, and that federal agencies shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such properties.

6.3.4 EO 13175; Presidential Memorandum of November 5, 2009; DOI SO 3317; DOC DAO 218-8

Executive Order 13175, enacted November 6, 2000, is intended to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes. In Presidential Memorandum of November 5, 2009, President Obama re-affirmed EO 13175 and directed that agencies submit a detailed plan of actions the agency will take to implement the policies and directives of EO 13175, and that this plan shall be developed after consultation by the agency with Indian tribes and tribal officials. Agencies shall also submit annual progress reports on the status of each action included in its plan together with any proposed updates to its plan. Department of the Interior (DOI) Secretarial Order (SO) 3317, and Department of Commerce (DOC) Departmental Administrative Order (DAO) 218-8 direct the implementation of these plans within DOI and DOC, respectively.

The TCL approach can revolutionize “regular and meaningful consultation and collaboration” if implemented by agency staff from the field to the leadership level.

6.3.5 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EO directs federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law. The order also directs each agency to develop a strategy for implementing environmental justice. The order is also intended to promote nondiscrimination in federal programs that affect human health and the environment, as well as provide minority and low-income communities access to public information and public participation.

Although not a direct primary objective of the TCL approach, the project’s guiding principles support environmental justice goals. As tribal communities may be able to increase their capacity for education and self-determination, as well as cultural revitalization, factors related to human health and living environment can also improve.

6.3.6 Secretarial Order No. 3330, Improving Mitigation Policies and Practices of the Department of Interior

The TCL approach can assist in fulfilling Secretarial Order No. 3330, which created a Task Force charged with, among other things, identifying “any new policies or practices, revisions to existing policies or practices, or regulatory or other changes that could be implemented to incorporate landscape-scale planning into mitigation-related decisions” (Secretarial Order No. 3330:4). TCL can assist with this goal as it would help “avoid potential environmental impacts from projects through steps such as advanced landscape-level planning that identifies areas suitable for development because of low or relatively low natural and cultural resource conflicts” (Secretarial Order No. 3330:2).

6.4 Process for Application

The TCL approach has numerous potential benefits, such as helping minimize conflicts, controversy, legal challenges and procedural delays. A similar and useful model comes from New South Wales, Australia, where the Office of Environment and Heritage has created the guidebook *Cultural landscapes: A practical guide for park management* (Dept. of Environment, Climate Change and Water 2010). Intended to assist protected area managers in the identification, assessment, management and interpretation of cultural values, the guide provides a framework for values-based planning that has broad utility. It outlines a stepwise process for applying a cultural landscape approach, which generally parallels the process followed by the TCL project (Figure 4).

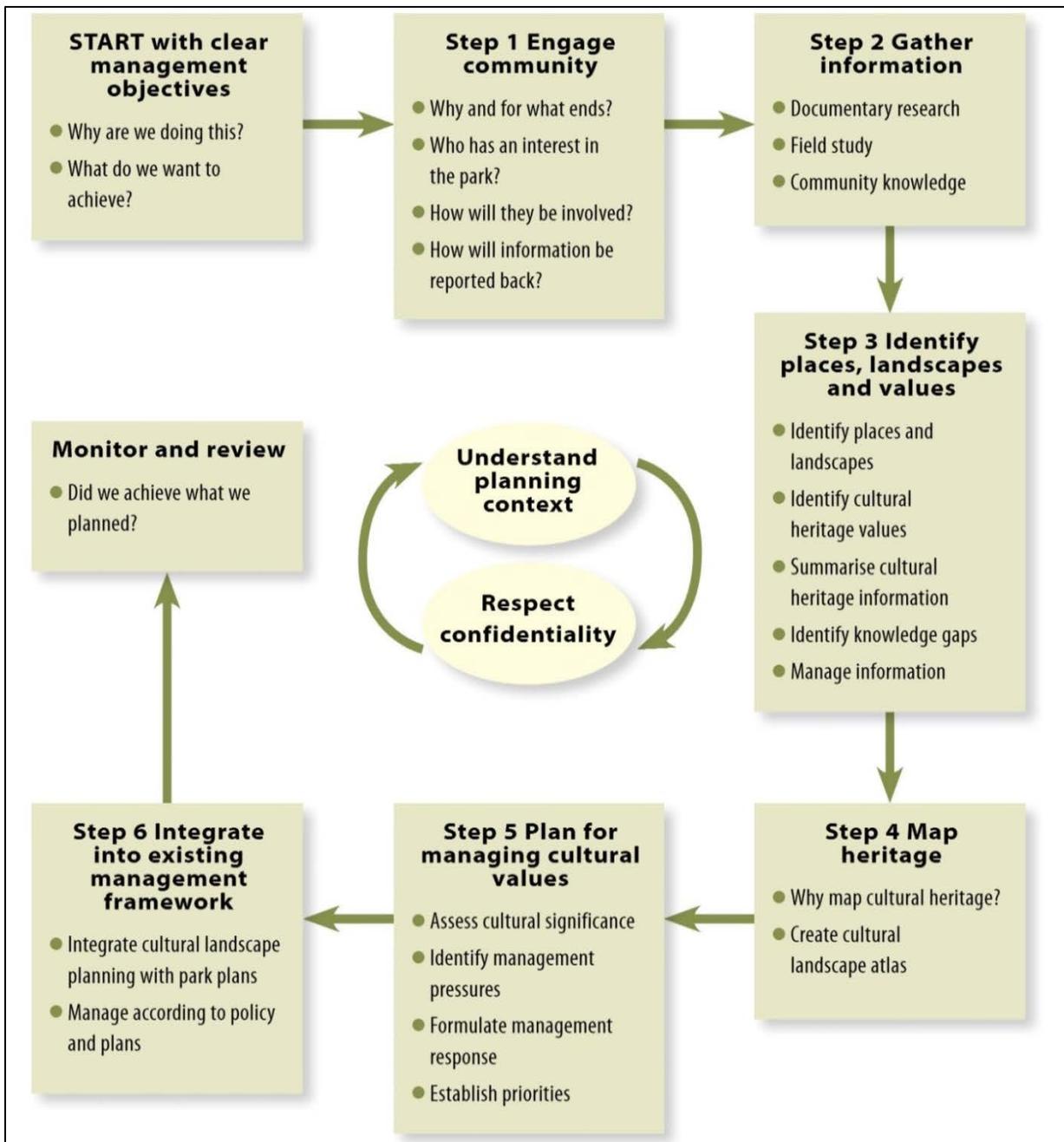


Figure 4. Steps in applying a cultural landscape approach.

From *Cultural landscapes: A practical guide for park management* (Dept. of Environment, Climate Change and Water, 2010).

Combining and adapting CEQ and ACHP’s integrated process model for NEPA and NHPA with the stepwise process for applying a cultural landscape approach outlined in the New South Wales guidebook yields the following framework (Figure 5). This model shows how the TCL approach can be feasibly implemented under existing federal policy and regulatory framework. The steps for conducting NEPA and NHPA Section 106 analyses are also included for comparison, to illustrate how the steps in the TCL approach align, and at what points they could be implemented. The TCL approach does not substitute for the other regulatory compliance structures but should be used to inform these processes.

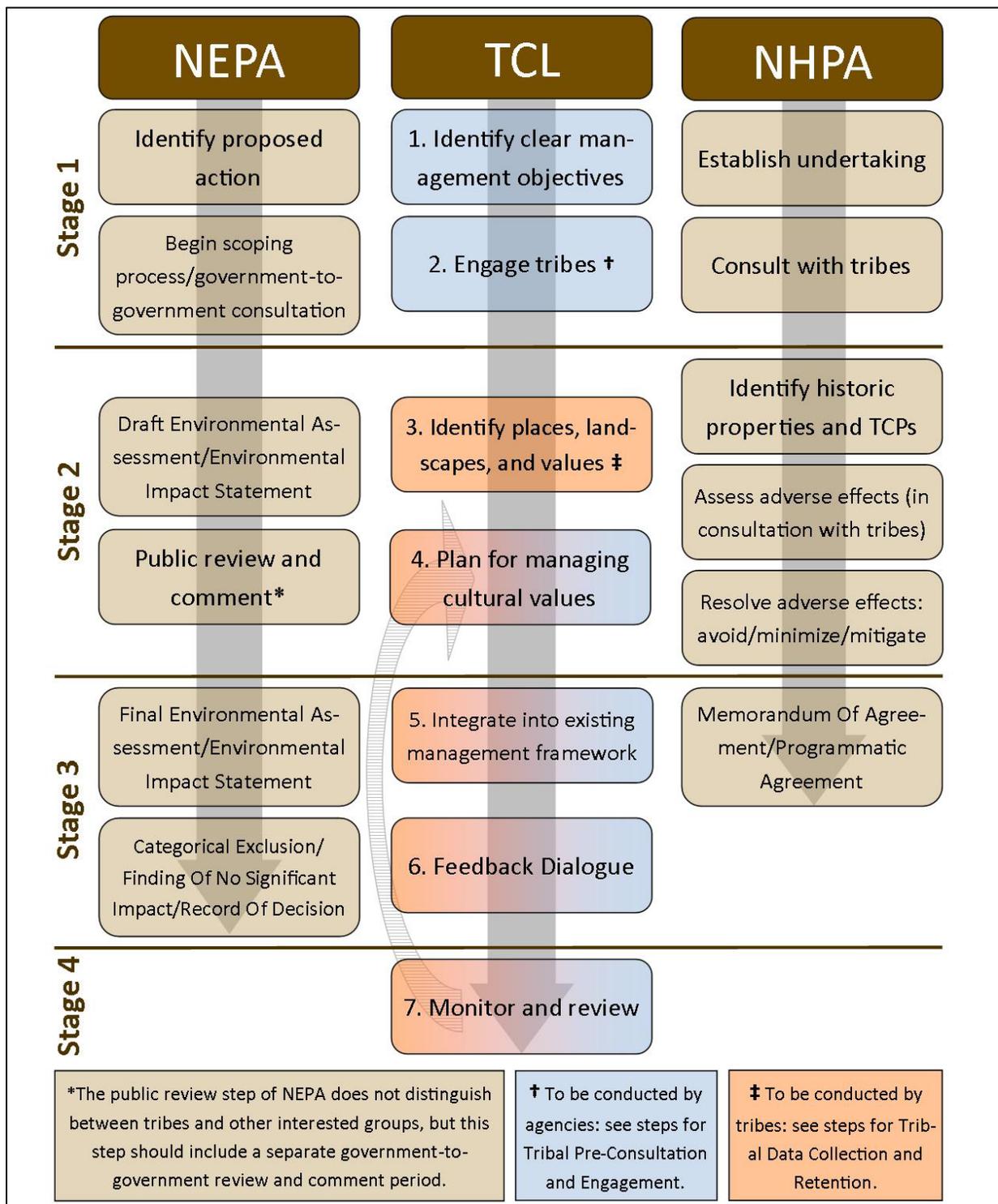


Figure 5. Process for application of TCL approach.

Showing how it can be feasibly implemented under existing federal policy. The steps for conducting NEPA and NHPA Section 106 analyses are also included for comparison, to illustrate how the steps in the TCL approach align, and at what points they could be implemented.

The steps in adopting a TCL approach are as follows:

1. **Identify clear management objectives:** Agency determines the proposed action/undertaking through its NEPA/NHPA process. This includes identifying potential tribes for government-to-government consultation as well as non- government-to-government engagement, identifying the initial area of potential effect (APE), and potential impacts to resources.
2. **Engage tribes:** Agency should follow the steps outlined above in *Guidelines for Tribal Pre-Consultation and Engagement* (Section 6.1). Agency sends formal letter to tribal leaders requesting government-to-government consultation, including NEPA/NHPA requirements. First consultation meeting begins by identifying protocols for consultation during proposed action/undertaking and clearly describes how sensitive information will be handled. The initial APE and known resources may be identified by the agency, but neither of these should be presented as final information. *Definition of the final APE, reasonable and good faith identification effort, and potential resource impacts must be developed through the consultation process.*
3. **Identify places/landscapes/values:** This step is conducted by tribes, following the steps outlined above in *Template for Indigenous Data Collection and Retention* (Section 6.2). This process is not dependent on a proposed undertaking, and may ideally be completed by tribes in advance of any proposed undertakings.⁹ During the TCL process, the tribe reviews project information, identifies landscapes that could be affected by the proposed action/undertaking, determines what information will be shared with the agency, and reviews/refines protocols for sharing sensitive information.
4. **Plan for managing cultural values:** Tribe and agency meet to develop a plan to incorporate TCL information into decision process, protect sensitive information, and determine how agency will provide feedback under Step 6. Under the NEPA process as it is typically conducted, the public review and comment step does not distinguish between tribes and other interested groups, but this step should include a separate government-to-government review and comment period (CEQ... 1978). Under the NHPA Section 106 process, the agency would assess, evaluate, and resolve any potential adverse effects on historic properties (on or eligible for listing on the National Register) as needed in consultation with tribes. The TCL approach shifts the focus to managing resources based on cultural values, in a truly collaborative manner where tribal input is integral to decision-making—being both incorporated earlier in the process and verified by tribes as appropriately represented in outcomes.
5. **Integrate into existing management framework:** Tribes outline steps to ensure that agencies incorporate tribal input into NEPA and NHPA documents, and memorialize the input through Finding of No Significant Impact/Record of Decision (FONSI/ROD) and, if needed to resolve adverse effects, Memorandum of Understanding/Agreement or Programmatic Agreement (MOU/MOA or PA).
6. **Feedback Dialogue:** Agency reports back to tribe informing them how their input was used in the decision-making process, and facilitates tribal review to ensure appropriateness of use.
7. **Monitor and review:** Agency and tribes review the process to ensure that all parties are satisfied with outcomes. Project applicant provides opportunities for agency and tribes to monitor activities related to the undertaking. If necessary, loop back to Step 4 and repeat. **When consensus is not reached:** When the parties acknowledge that agreement is not being reached, adopt the positive view

⁹ If an undertaking has been proposed, NHPA Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties. Information gathered during federally funded work is the property of the U.S. government, so confidentiality language should be incorporated into agreement and contractual documents.

that areas of disagreement are problems to be solved together. Assess the process used, clearly describe the areas of disagreement, and discuss among appointed representatives in order to clarify as well as to deepen understanding of any barriers. Based on mutual understanding, formulate a plan for working together in the future.

Most agencies have projects that generally fall into two different categories. These are 1) land management and planning processes, and 2) regulatory undertakings. The TCL approach has the potential to provide meaningful contributions to both sets of processes.

For land management and planning actions, this process will have the most immediate impact. During these types of undertakings, indigenous groups will be able to identify areas of cultural and spiritual importance to them, as well as the types of resources throughout the planning area that are important in developing more nuanced management schemes. The map below depicts some of the points of interest identified from the Grand Ronde case study (Figure 6). This map illustrates how areas can be expressed in a generic manner to an agency while allowing targeted consultations to look at specific locations and the management proposals that may affect them.¹⁰

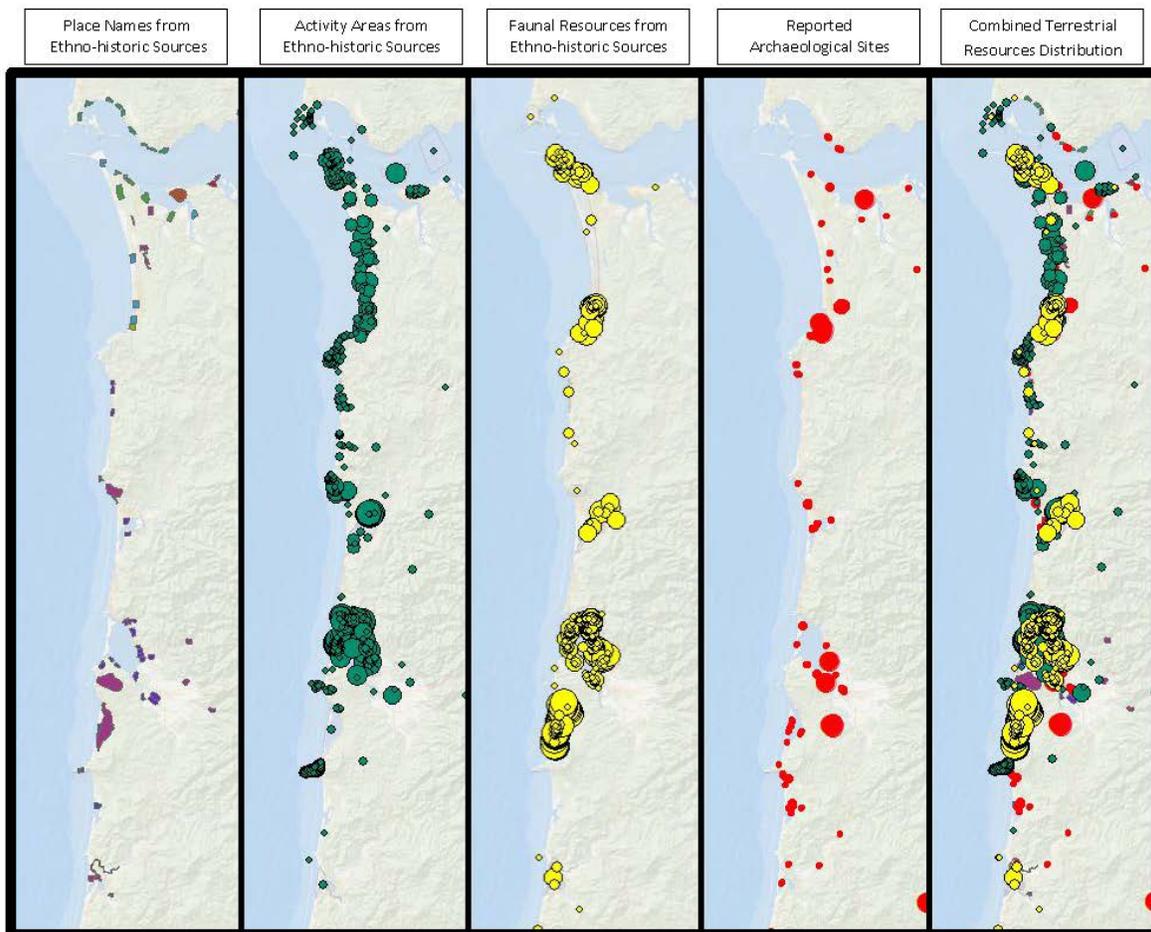


Figure 6. Map showing some of the points of interest from Grand Ronde case study.

¹⁰ Viewsheds are not illustrated in the map, but they are considered in the Grand Ronde case study.

This format illustrates how significant areas can be expressed in a generic manner to an agency while allowing targeted consultations to look at specific locations and the management proposals that may affect them.

A TCL approach can assist indigenous communities and agencies in communicating about areas of mutual interest to ensure that both parties have meaningful interactions concerning places and resources. Additionally, it can also allow indigenous groups to target consultation as they see fit and work with agencies to identify and work toward appropriate management of these places and resources.

As agencies and the indigenous groups with which they are consulting identify areas where ecosystem-scale management will take place, including vegetation management, infrastructure development, road improvement, aesthetic improvements or other potential undertakings, the two parties can find mutual understanding in the indigenous concepts of landscape, and focus on holistic planning that will benefit agencies in their responsibilities. This will assist agencies in complying with NEPA and fulfilling their fiduciary responsibilities of consulting, and can assist in compliance with the NHPA. This also transforms a planning and pre-planning process from one of mere notification to one of more holistic, meaningful, and effective consultation.

For regulatory undertakings, this process will be useful as part of the Section 106 NHPA process and potentially useful in identifying areas eligible for listing either as Traditional Cultural Properties, or as properties of “traditional religious and cultural importance to an Indian tribe or Native Hawaiian Organizations” under Section 101(d) 6(A) of NHPA (54 U.S.C. §302706).

Using the TCL approach will assist indigenous communities in recording information of importance to them. When notification is sent to these communities during regulatory undertakings, this tool will enable them to provide meaningful comments in a timely manner to agencies overseeing regulatory reviews. It also will enable project consultation to be targeted and reviewed quickly so that potential issues and pitfalls can be addressed early. If avoidance of impacts is not an option, the use of these kinds of studies will provide indigenous communities a way to recommend mitigation and minimization measures to agencies, as well as enable agencies to evaluate the recommendations in a timely manner.

Importantly, agency representatives should understand that the information developed under this process will typically be proprietary to the participating indigenous group unless agreements are developed to identify data sharing responsibilities. As such, this is not a replacement for the normal government-to-government consultation process, but an enhancement of it. Some indigenous groups may not have the infrastructure or capacity to participate in this process, but through consultation it may be possible for agencies to assist these indigenous groups in conducting this process by providing technical assistance, funding, and internship opportunities or by assisting in the development of agreements with institutions of higher learning.

It should be noted that this process is intended as a means for indigenous groups to convey their areas of concern and the types of resources that could potentially be impacted by undertakings. These types of studies, while extremely useful for agencies, should be developed and implemented by indigenous groups who may then assist agencies in developing and refining planning and regulatory actions via consultation.

7. Inter-Tribal Workshops

The first workshop was held in Grand Ronde, Oregon (August 27th and 28th, 2013) in which seven federal and state agencies and four tribes with ancestral connections to the Oregon coast participated. The second workshop was hosted by the Makah Tribe in Neah Bay, WA (September 25th and 26th, 2013) in which seven federal and state agencies and four coastal Washington tribes participated. The concluding

workshop was hosted by the Yurok Tribe in Klamath, CA, (December 3rd and 4th, 2013) and included representatives from five federal and state agencies and eight California tribes with connections to the coast.

From the outset it was necessary to develop a definition for the concept at the core of this project, Tribal Cultural Landscape (TCL, as defined on p. 9). The definition was the focus of the first workshop, with its development originating from the participating tribes on the first day of the Oregon workshop, and presented to the agencies for consideration of potential applicability within current legislation and mandates. The definition and associated glossary of terms (Appendix 1) were further developed throughout the workshop process.

The subsequent workshop participants reviewed and refined the definition and identified existing federal legislation where this type of study may be applicable, as well as potential opportunities where this type of study would most benefit a gencies and tribes. Both tribes and agencies identified the proposed process/methodology as being most meaningful and relevant when implemented during the pre-planning phase of project development commonly referred to as scoping. Agency and tribal participants also recognized that the methodology/process was likely to be most beneficial when the subject information originated with tribes and was vetted through tribal process.

Regarding project and workshop processes, tribal and agency participants expressed appreciation of:

- Respect for sensitive information;
- The opportunity to communicate face-to-face with each other;
- Agency leadership allowing time and resources for relationship building;
- Solicitation and incorporation of open-ended tribal input in advance of any proposed undertakings; and
- Both regulatory and management agencies saw applicability of the process through both NEPA and NHPA processes.

7.1 Confederated Tribes of Grand Ronde

Grand Ronde, Oregon
August 27-28, 2013

Participants (in addition to TCL Project Team):

- 10 agency representatives from 4 state agencies and 2 federal agencies:
 - Oregon Dept. of Transportation
 - Oregon Military Dept.
 - Oregon State Historic Preservation Office
 - Oregon Legislative Commission on Indian Services
 - U.S. Forest Service, Siuslaw National Forest
 - U.S. Army Corps of Engineers
- 4 tribal representatives from 3 tribes:
 - Confederated Tribes of Siletz Indians
 - Coquille Indian Tribe
 - Quinault Indian Nation
- 2 host tribe staff

Summary of Goals/Agenda:

- Demonstrate a variety of TCL approaches for comment and discussion.

- Develop a working definition for Tribal Cultural Landscape. It was necessary that the definition be agreed upon by all tribes present as a test for possible applicability and acceptance by other tribes.
- Present the definition to state and federal agency technical and management staff for feedback regarding applicability within agency operations and process. It was understood from the outset that the success of a TCL approach would be largely dependent upon its ease of inclusion in existing agency process.

Summary of Accomplishments/Results:

- The different TCL approaches were all considered equally valid. This is in keeping with tribal self-governance and ability to determine appropriate practice.
- A working definition of TCL was successfully developed. It should be noted that the intent of the TCL approach was readily accepted by all tribes at the initial meeting. The definition was also accepted by the state and federal agency representatives.
- The TCL team successfully demonstrated the working model of inclusion.
- The TCL working definition was to be presented at the other workshops for input and modification as necessary.
- The agencies would reply further if there were other considerations about the approach and its impact or inclusion in existing process.
- One unintended consequence of this process was recognition by agency staff that they had never been in a position to be asked their opinion in a consultative manner. As one representative said “So, this is what it’s like to be on the other side of the table.”

7.2 Makah Tribe

Neah Bay, WA
September 25-26, 2013

Participants (in addition to TCL Project Team):

- 8 agency reps from 3 state agencies and 4 federal agencies:
 - Washington State Historic Preservation Office
 - Washington Dept. of Transportation
 - Washington Dept. of Natural Resources
 - U.S. Fish and Wildlife Service
 - Olympic Coast National Marine Sanctuary
 - Olympic National Park
 - U.S. Army Corps of Engineers
- 5 tribal reps from 4 tribes:
 - Quileute Tribe
 - Hoh Tribe
 - Quinault Indian Nation
 - Chehalis Tribe
- 6 host tribe staff

Summary of Goals/Agenda:

- Provide input on TCL definition from Oregon Workshop: discuss and refine.
- Discussion by tribes:
 - Resource characterization:
 - General resources to include in a TCL;
 - Level of documentation provided to agencies;

- Protection of sensitive information;
 - How to communicate significance when information is sensitive.
- Consultation:
 - Do tribes have their own consultation policies;
 - What constitutes consultation;
 - When should it be initiated and at what personnel level;
 - How can it be improved;
 - Are there terms that need to be defined?
- Discussion by agencies:
 - Resource characterization:
 - Utility of a landscape approach;
 - Feasibility under existing law and policy;
 - Level of documentation required to make a determination of effect;
 - Ways to assist tribes in protecting sensitive information?
 - Consultation:
 - At what point in the planning process are tribes invited to provide input;
 - What could agencies do differently to improve consultation?
- Demonstrate a variety of TCL approaches for comment and discussion.
- Integration of Natural Resources to Cultural Landscape.

Summary of Accomplishments/Results:

- The working definition of TCL was accepted by all tribes as well as state and federal agency representatives.
- The TCL team successfully demonstrated the working model of inclusion.
- The different TCL approaches were all considered equally valid. This is in keeping with tribal self-governance and ability to determine appropriate practice.
- The agencies would reply further if there were other considerations about the approach and its impact or inclusion in existing process.

7.3 Yurok Tribe

Klamath, CA

December 3-4, 2013

Participants (in addition to TCL Project Team):

- 7 agency reps from 2 state agencies and 3 federal agencies:
 - California Dept. of Transportation
 - California State Historic Preservation Office
 - BOEM
 - Bureau of Land Management
 - Redwood National Park
- 9 tribal reps from 8 tribes:
 - Graton Rancheria
 - Amah Mutsun Tribal Band
 - Trinidad Rancheria
 - Salinan Trowtraahl
 - Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
 - Smith River Rancheria
 - Santa Ynez Band of Chumash Indians
 - Sherwood Valley Rancheria

- 4 host tribe staff

Summary of Goals/Agenda:

- Attendance and participation of representatives from California tribes with connections to the coast.
- Describe goals of TCL project. Present summaries of Makah and Grand Ronde workshops.
- Provide input on TCL definition: discuss and refine.
- Discussion by tribes:
 - Resource characterization:
 - General resources to include in a TCL;
 - Level of documentation provided to agencies;
 - Protection of sensitive information;
 - How to communicate significance when information is sensitive.
 - Consultation:
 - Do tribes have their own consultation policies;
 - What constitutes consultation;
 - When should it be initiated and at what personnel level;
 - How can it be improved;
 - Are there terms that need to be defined?
- Discussion by agencies:
 - Resource characterization:
 - Utility of a landscape approach;
 - Feasibility under existing law and policy;
 - Level of documentation required to make a determination of effect;
 - Ways to assist tribes in protecting sensitive information.
 - Consultation:
 - At what point in the planning process are tribes invited to provide input;
 - What could agencies do differently to improve consultation?
- Demonstrate a variety of TCL approaches for comment and discussion.
- Cultural Presentation: How the Yurok world view fits with TCP definition.
- Integration of Natural Resources to Cultural Landscape.
- Panel discussion by project team and participating tribes (Figure 7).

Summary of Accomplishments/Results:

- The working definition of TCL was accepted by all tribes as well as state and federal agency representatives.
- The TCL team successfully demonstrated the working model of inclusion.
- The different TCL approaches were all considered equally valid. This is in keeping with tribal self-governance and ability to determine appropriate practice.
- The agencies would reply further if there were other considerations about the approach and its impact or inclusion in existing process.



Figure 7. Workshop participants

Panel discussion with Project Team and Workshop participants, Klamath, CA.

8. Case Studies

Each of the three participating project tribal communities conducted case studies to demonstrate how this process could be used to identify tribal cultural landscapes. The case studies began with Traditional Cultural Property and Traditional Ecological Knowledge analyses of tribal sites and resources within representative tribal regions. The target study areas focus on the landscapes within the ceded and aboriginal homelands of each of the representative tribes and incorporate coastal and marine areas that could be impacted by offshore renewable energy development. The case studies focus on areas that include coastal land-based, as well as offshore, areas of tribal significance. Each case study incorporates an area of at least 6,000 acres (2,428 hectares) and was determined in coordination with the BOEM Project Officer.

The types of cultural resource information identified include traditional cultural properties, information related to traditional gathering, hunting, fishing and other subsistence and commerce activities, as well as those related to spiritual and ceremonial sites and activities. The project activities included archival research, field investigations and visits to select type-sites, community outreach to identify tribal elders and other tribal members who are familiar with the study area, the selection of oral history candidates, conducting and/or transcribing the oral histories, and developing draft and final reports.

The intra-tribal outreach activities conducted include informational meetings with tribal members to identify potential Traditional Cultural Properties, Traditional Ecological Knowledge, cultural use sites and use activities within the defined study areas. As appropriate, notices were also placed in tribal newsletters. The outreach activities were conducted as presentations to elders, and notices and short articles in the tribes' newspapers.

Each case study has potential to directly affect the identification and comprehension of resources at risk to agency-based undertakings. Each case study identified an area to which the tribe holds a cultural connection. Within that geographic framework, each tribe has identified a myriad of resources, practices, and sensitive sites with which they interact. Although the manner of interaction may have changed over time, often practices are continued and modified over generations. The sources of this information vary greatly and demonstrate the diversity of ways in which tribes gather, hold, and disseminate information.

8.1 Case Study Summary: Grand Ronde

In its case study (Volume II of this report), the Confederated Tribes of the Grand Ronde Community of Oregon developed a method to identify areas of historic and contemporary importance to some of the tribal groups relocated to the Grand Ronde Reservation. They achieved this by analyzing the publicly available primary historic, ethnographic and linguistic sources of the Tillamook and Clatsop peoples, focusing on any references associated with the worldview and geographic extent of these groups. While the main case study area is Tillamook and Clatsop Counties in Oregon, references extended up the Columbia River to Tenas Illahee, an island near Columbia County and extended as far north as Vancouver Island, British Columbia. While all references were recorded for the purposes of this study, the focus was on the northern Oregon coast.

Possible source materials included oral history recordings, archaeological site reports, other archives, contemporary maps, GIS data, environmental information, and interviews with elders and practitioners. In analyzing these sources, the Grand Ronde team filtered the text and extracted every notation of place, fauna, flora, mineral and season. Spreadsheets and databases were developed, and each reference was recorded with a paraphrase of the context, page number, and other notes. The researcher recording the information, and their own personal reflections about content were also noted. After this information was developed, over 3500 entries were reviewed and filtered. Those that could be geo-referenced were done so in ArcGIS 10.2 to create a layer identifying potential areas of historical and contemporary importance, along with the types of resources.

Next, the team conducted general outreach to the Grand Ronde Tribal membership, and interviews were conducted to gain access to any cultural or recreational activities that might have taken place inside of the study area. Reviews of existing oral histories were conducted and references to the case study area were entered into another spreadsheet noting informant, date of interview, and specific reference to the area along with its placement within the recording in order to enable quick access to the original interview.

Targeted interviews were then conducted with elders and others known to participate in gathering, hunting, fishing and other cultural activities. The reviewed and new interviews were then geo-referenced over the original GIS layers to enable the Tribal Historic Preservation Office to see if cultural places of concern maintained consistency and how resources of interest may have changed.

The Tribe produced a public version that excludes sensitive information and most of the contemporary interview locations, but displays the ethno-historically referenced locations to assist others in conducting this type of study.

8.2 Case Study Summary: Makah

In its case study (Volume II of this report), the Makah Tribe used the Makah Cultural and Research Center's (MCRC) wealth of historic documents, photographs, manuscripts, audio and video recordings, transcripts of audio recordings, legal records, cultural site reports, maps, pre-contact and historic artifacts and publications that relate to the area and resources within the defined Ozette Tribal Cultural Landscape

(TCL). In order to document and connect the resources that have been utilized by Makah people for centuries within the TCL, the project team examined the MCRC's resources to determine the extent of the information. The Tribe's efforts focused on ocean areas and resources that covered a much larger area than the TCL, so a more narrow focus on the Ozette area was necessary.

The Makah Tribe's Fisheries Management Program manages and documents contemporary commercial and ceremonial and subsistence use of fisheries resources within the Makah Usual and Accustomed (U & A) area. The Fisheries Program was defined as an integral part of the TCL project. The fisheries manager was asked to provide detailed information about the types and abundance of sea mammals, fish and shellfish within the TCL. The information was provided and was given to the Makah GIS specialist for digitization and inclusion in the Makah GIS database.

For the purposes of this report and intended audience, generalized terms for resources and areas were used. While much of the information collected is available to the public, participation of the Tribe in this project was contingent upon assurances made to the Makah Tribal Council and the Makah Tribal Historic Preservation Office (THPO) staff that data would not be shared with outside agencies.

One effort of this project was to transcribe existing audio recordings in the hopes of finding additional information that could be included in the case study. Transcribing hardware and software were purchased for this project and a computer was provided through the MCRC. The new oral interviews described below were transcribed and are now a part of the MCRC collection.

Oral interviews were conducted with identified individuals that were known to utilize the case study area. In all cases, the individuals were linked to the area over generations. THPO staff created a set of questions and provided a map of the area of inquiry for the interviews. The map was an essential tool in allowing the respondent to identify where their activities take, or have taken, place. The interviews documented recent use and connection to resources within the TCL.

The MCRC's archives contain the most comprehensive collection of Makah related information anywhere in the world. While many of the manuscripts are digitized there is still a large assortment of items that are not. There is a vast array of information, some found in very obscure places. We directed our research beginning with the primary document that the Makah Tribe relies upon to retain our identity – the 1855 Treaty of Neah Bay. From this point we collected references pertaining to the treaty negotiations and other related publications. These records are very important because they describe the importance of both places and resources and how the Makah have interacted with them over long periods of time. These court records almost always contain sworn affidavits from Makah members who are no longer with us.

The Ozette archaeological excavation was conducted over an eleven-year period between 1970 and 1981 at the site of the southernmost permanent village of the Makah. Numerous reports have been produced to describe the pre-contact settlement of Makahs living there from 300-500 years ago. The material remains at Ozette provide extensive and quantifiable detail into resource use both on land and on the water. We initially wanted to look into other village areas because so many efforts had already been made to understand life at Ozette during pre-contact times. However, what we found when we looked at Ozette through the lens of complex issues and competing interests, multiple land uses and marine uses, and numerous resources, Ozette fit with what we were trying to accomplish in laying out a Tribal Cultural Landscape.

The area we identified captures inland ranges that include a productive river, lake, and prairies as well as the coastal strip with convenient access to rocky offshore islets and extensive marine resources. This area is typically viewed from the perspective of distinctive sites rather than connected landscape. By connecting these resource areas through human use, we are able to see the interdependence between land and water, technology and resource use, people and place.

8.3 Case Study Summary: Yurok

In its case study (Volume II of this report), the Yurok Tribe developed its case study area with respect to the definition of a Tribal Cultural Landscape from the Yurok perspective. The case study area includes the minimum amount of area and Traditional Cultural Properties needed to express the Yurok worldview. The land area exceeded the minimum case study area by about 50%, and yet still only included about 2% of Yurok ancestral territory on land. The ocean portion of the case study area is approximately 800 times larger than the minimum case study area, yet again only includes a small portion of the Yurok worldview.

Source materials included archives, oral history recordings, archaeological site reports, data from tribal environmental, fish, and GIS programs, and previous experience working within the Yurok TCL. The Heritage Preservation Office of the Yurok Tribe has conducted numerous interviews (both video and audio) since 1996. Interviews with a known or potential connection to the case study area were reviewed for content. In addition, a literature search was conducted within the Yurok Tribal Archives, a review of the digitized T.T. Waterman *Yurok Geography* locations within the case study area was conducted, and a presentation before the Yurok Tribe Cultural Committee was made asking for further information and potential persons to interview. Finally, a literature search of known writings of Yurok Culture was searched for locations within the case study area.

After conducting an outreach campaign to the general tribal membership, a list of persons with knowledge of the case study area was compiled; interviews were scheduled and conducted utilizing information gleaned from the research conducted prior to the interview. From those interviews and research, a sample group of TCP's were selected for field truthing. The sample group was selected with an eye toward describing the Yurok worldview of a TCL within the Yurok case study area. The Yurok Tribe Land Management (YLM) survey crew, Tribal archaeologist, and Heritage Preservation Officer conducted the field truthing utilizing GPS equipment with an accuracy level of sub centimeter.

9. Outreach

Beyond any outreach activities conducted by THPO staff as part of the case studies, project team members presented the project in several professional publications and venues, and distributed the project fact sheet. These included:

9.1 Publications

Grussing VJ et al. 2014. Characterizing Tribal Cultural Landscapes for Resource Preservation and Protection: Documenting culturally important areas - for tribes, by tribes. In: *Proceedings of the 2014 Asia-Pacific Regional Conference on Underwater Cultural Heritage*; 2014 May 12-16; Honolulu, HI. Available from: <http://www.themua.org/collections/collections/show/16>

Grussing VJ. 2015 Aug. Characterizing Tribal Cultural Landscapes: A Collaborative Approach to Resource Management. *Anthropology News*.

Ball D, R. Clayburn, R. Cordero, B. Edwards, V. Grussing, J. Ledford, R. McConnell, R. Monette, R. Steelquist, E. Thorsgard, J. Townsend. 2015. A Guidance Document for Characterizing Tribal Cultural Landscapes. US Department of the Interior, Bureau of Ocean Energy Management, Pacific OCS Region, Camarillo, CA. OCS Study BOEM 2015-047. 32 p. <http://www.boem.gov/Pacific-Completed-Studies/>.

9.2 Presentations

- George Wright Society Biennial Conference, March 11-15, 2013 in Denver, CO. Valerie Grussing presented the project (funded by MPA Center), bringing an important ocean perspective to this largely terrestrially focused conference for protected area managers in North America.
- Society for Applied Anthropology Annual Conference, March 19-23, 2013 in Denver, CO. The conference theme was “Natural Resource Distribution and Development in the 21st Century.” Valerie Grussing presented the project in a session that was well-attended and enthusiastically received.
- Indigenous Ocean Science Forum, April 22-23, 2013 in Portland, OR (with some travel support provided by organizer Smith River Rancheria). Tribal team members delivered a panel presentation on the "Cultural Landscape Approach to Marine Planning and Cultural Resource Protection."
- Society for Historical Archaeology Annual Conference in Quebec City, Quebec, January 8-12, 2014. Funded by a grant from the Fish and Wildlife Foundation, Valerie Grussing attended and conducted outreach on the project.
- Conducted a forum at Society for American Archaeology Conference in Austin, TX April 24-27, 2014. Team members presented the project and engaged approximately 25 participants in discussion about its concept, principles, regulatory applicability, utility to other tribes, and other similar efforts. Feedback was resoundingly positive, with tribal, agency, and private sector representatives expressing appreciation and enthusiasm for the model and its potential to improve tribal/agency coordination, give tribes a stronger voice in planning and management processes (thereby strengthening those processes), and protect places and resources important to tribes.
- 2nd Annual Asia-Pacific Underwater Cultural Heritage Conference, May 12-16, 2014 in Honolulu, HI. The conference was an opportunity to exchange and disseminate information about underwater cultural heritage and underwater archaeology in Asia, the Indian Ocean and Pacific Ocean. A wide range of people involved with underwater cultural heritage attended including those from universities, government agencies, museums, NGOs, IGOs, the private sector and the community. In the session “New Approaches in UCH Management in the US,” Brad Barr (NOAA) presented ONMS’ Maritime Cultural Landscape Initiative, Valerie Grussing presented the TCL project, Hans Van Tilburg (NOAA) presented the BOEM/NOAA Cultural Resources Assessment and Survey project in Hawaii, and David Ball presented an overview of the latter two projects as well as other BOEM cultural resources initiatives. The session was well attended and received an enthusiastic response to all presentations.
- American Society for Environmental History Annual Conference, March 18-22, 2015 in Washington, DC. The conference theme was “Turning Protest Into Policy: Environmental Values and Governance in Changing Societies.” Valerie Grussing presented the project in a two-part session on Maritime Cultural Landscapes, which was well-attended and enthusiastically received.
- George Wright Society Biennial Conference, March 29-April 3, 2015 in Oakland, CA. Valerie Grussing presented the project (funded by NOAA), bringing an important ocean perspective to this largely terrestrially focused conference for protected area managers in North America. The presentation was part of an invited session on Renewable Energy Development Case Studies and Applications for Enhanced Resource Protection. The presentation was well-attended and

enthusiastically received, although a contingent from southern CA continued to express concern about involvement and representation of non-federally-recognized tribes.

- Maritime Cultural Landscape Symposium and Workshop, Oct. 14-16, 2015 in Madison, WI. Around 80 people attended (and around 70 people joined the webcast of) the Maritime Cultural Landscape (MCL) Workshop in Madison, Wisconsin. Fifty cultural resource experts served as speakers and panelists, including historians, archaeologists, managers, indigenous representatives, and attorneys. Participants explored how the terrestrial and submerged resources near and in the nation's oceans, rivers, and lakes might be identified, characterized, and evaluated, and what benefits may be derived from the broader recognition of these landscapes as unique entities "worthy of preservation." On day 3, 30 participants engaged in facilitated discussion on how agencies, tribes, Alaska Natives, Native Hawaiians, and State Historic Preservation Offices might use the MCL concept to more effectively preserve and protect their maritime heritage resources. Breece Edwards presented the Grand Ronde case study during the symposium, and he along with Valerie Grussing and Dave Ball participated in the workshop. The event was collaboratively organized by the National Park Service, NOAA, BOEM, and the Wisconsin SHPO.

10. Related Efforts

The TCL project builds upon, and contributes to, past and current landscape initiatives within DOI and DOC, as well as internationally. Participants and staff undertaking a number of these initiatives are keenly interested in the outcomes of the TCL project, and their potential to inform and strengthen these related efforts.

10.1 ACHP Native American Traditional Cultural Landscapes Action Plan

The ACHP's Native American Traditional Cultural Landscapes Action Plan is intended to acknowledge and help identify places of tribal significance (Donaldson 2012). The plan was developed in response to three main factors: 1) "Improvements in federal agency consultation with Indian tribes and [Native Hawaiian Organizations] (NHOs); 2) greater recognition of their expertise in identifying historic properties of significance to them; ... [and] 3) increasing development pressures in places not previously developed" (ACHP 2011b). The plan lays out numerous action items intended to "promote the recognition and protection of Native American traditional cultural landscapes both within the federal government and the historic preservation community as well as at the state and local levels," and also to "address the challenges of the consideration of Native American traditional cultural landscapes in the Section 106 review process as well as in NEPA reviews" (ACHP 2011b).

10.2 NPS Indigenous Cultural Landscape Initiative

Within NPS, the concept of the indigenous cultural landscape, as employed in the Captain John Smith Chesapeake National Historic Trail, demonstrates that places and resources significant to tribal and indigenous peoples are ubiquitous (Beacham 2012). Incorporation of the concept into the Comprehensive Management Plan for the trail, by a working group consisting of tribal, federal, and state representatives, establishes positive precedent for collaboration and proper engagement of tribal communities in the inventory and interpretation of their own special places (NPS 2011).

10.3 National Register Landscape Initiative (NRLI)

Additionally, the National Register Landscape Initiative (NRLI) is part of a broad NPS effort to improve the identification, documentation, registration, and management of America's cultural landscapes. These

efforts are in keeping with the path charted by the Secretary of the Interior in *A Call to Action, Preparing for a Second Century of Stewardship and Engagement*, which outlines goals and actions to meet the changing needs of the national parks and NPS conservation and preservation programs (NPS 2013).

Independent of the *Call to Action*, the NRHP program identified a growing interest in cultural landscapes among all constituents, including tribal, federal and state historic preservation programs. It became evident that additional guidance was needed to encourage and assist in the identification, description, and evaluation of landscapes. Before preparing additional guidance or amending old guidance, the NRHP program decided to engage in conversations about landscapes with its preservation partners to get their ideas about needs and priorities.

The NRLI is a forum for conversations about nominations that concern landscapes. It is led by National Register staff, with participation by other NPS cultural resource professionals and representatives of state, tribal, and federal historic preservation offices. A range of professional and scholarly expertise is represented by historians, landscape architects, archaeologists, and others. A Core Group, including Eirik Thorsgard, participates in key discussions and responds to draft material prepared by the National Register staff. A Review Group comments on drafts before they are subject to public comment.

Participants discuss survey and evaluation issues, including the adequacy of the existing National Register bulletins and potential improvements to them. Conversations include methodologies for describing and evaluating landscapes, the terminology used to categorize or describe landscapes, and requirements for including better landscape descriptions in all nominations. Other issues identified by participants are also discussed. The NRLI will result in the development of clear, consistent, and thorough guidance that will be explained in follow-up training programs.

The Maritime Cultural Landscape Symposium and Workshop listed above represent a joint implementation action of the NRLI and the MCL Initiative of ONMS described in the *Project Background* (p. 9). Thinking and action on maritime and tribal cultural landscapes do not necessarily need to progress with a coordinated approach, but in this case, the team members in common are able to capitalize on the opportunity.

10.4 National Congress of American Indians (NCAI) Resolution on Traditional Knowledge

This Resolution entitled *Request for the Federal Government to Develop Guidance on Recognizing Tribal Sovereign Jurisdiction over Traditional Knowledge* resolves that “the Federal government work with tribes to develop appropriate guidance on how to approach tribes for access to traditional knowledge, while also respecting the right of each tribe to develop its own terms of access;” and also that “the Federal government work with its funding agencies to ensure respect for and protection of these rights in all federally-funded projects” (NCAI 2013). The TCL approach makes considerable contributions toward these goals.

10.5 DOI Strategy for Improving Mitigation Policies and Practices

This April 2014 report from the Energy and Climate Change Task Force is intended to advance landscape-scale, science-based management of America's public lands and wildlife. The report recommends a strategy to implement mitigation policies and practices at DOI that can more effectively encourage infrastructure development while protecting natural and cultural resources. This strategy outlines the key principles and actions we need to take to successfully shift from a reactive, project-by-project approach to more predictable and effective management of the lands and resources that we manage (Clement et al 2014) – indeed a fitting description of the TCL approach.

10.6 International Tribal/Indigenous Cultural Landscapes

In addition to the cultural landscape framework from Australia discussed above in the *Process for Application* (p. 24), there are other noteworthy international approaches and guidelines, of which the following are limited examples.

10.7 Canadian Approach

Susan Buggie (1999) outlines a fairly comprehensive approach to Canadian aboriginal cultural landscapes that involves elements later expounded by the TCL approach and the various initiatives listed above. These include (to name a few) traditional knowledge, diversity of aboriginal experience, cosmological relationship to and associative values of place, social and economic life on the land, intangible values, boundaries, National Historic Site designations and significance, consultation and participation, definitions and guidelines for identifying Aboriginal Cultural Landscapes. A contemporary example of a site in Canada that is revolutionizing international treatment of indigenous resources and places is Pimachiowin Aki, described below.

10.8 UNESCO World Heritage

The Operational Guidelines for the Implementation of the World Heritage Convention define the types of sites that may be eligible as World Heritage Sites: those important for their cultural or natural heritage, mixed cultural and natural heritage, and cultural landscapes. The 2013 nomination of Pimachiowin Aki has spurred a reevaluation by the World Heritage Committee about how indigenous cultural landscapes may be represented on the World Heritage List. The Committee delayed a decision regarding eligibility, and “requested the World Heritage Centre, in consultation with the Advisory Bodies - IUCN (International Union for the Conservation of Nature) and ICOMOS (International Council on Monuments and Sites) - examine options for changes to the Advisory Bodies’ evaluation processes for new nominations (see <https://www.iucn.org/theme/world-heritage> for more information)” (Pimachiowin Aki World Heritage Project 2016).

Subsequently, IUCN and ICOMOS have created recommendations for enhanced collaboration, communication and joint reporting in evaluations of mixed cultural and natural heritage nominations. “The World Heritage Committee made another significant change in 2015 tied to efforts by many groups and organizations to ensure the rights of Indigenous peoples are recognized in nominating a site. The Committee approved changes to its operational guidelines that encourage States Parties to demonstrate that the free, prior and informed consent of Indigenous peoples has been obtained in preparation of nominations, recognizing that the participation of Indigenous peoples is essential to enable them to have a shared responsibility in the maintenance of World Heritage sites” (Pimachiowin Aki World Heritage Project 2016).

The TCL approach expounds these key points: that many places important to indigenous communities possess inseparable natural and cultural heritage significance; that characterization, nomination, and indeed any publicizing of these places should rightfully come from associated indigenous communities; and that preservation and management of these places must integrally involve the associated indigenous communities. Although these concepts and principles are intuitive and self-evident to the initiated, they nonetheless form the foundation of a global paradigm shift currently underway. The TCL project and its team are humbly enthusiastic to play a part in this overdue transformation.

11. Conclusions

The Tribal Cultural Landscape approach provides a way for agencies and project applicants to be proactive in working with indigenous communities to identify areas of tribal significance that should be considered in planning and management processes. This approach represents a method for indigenous communities to record their own cultural resources and places, and convey necessary information to agencies and project applicants for appropriate use in planning and regulatory compliance activities, including for offshore renewable energy development. The Guidance Document outlining this approach can be found online at: <http://www.boem.gov/2015-047/> and sanctuaries.noaa.gov/tribal-landscapes.

From its inception, the TCL process should involve indigenous communities in the identification of areas and types of resources that are important contributing factors to their continued identity and cultural practices. When communities can identify their own resources and places under the rubric of their cultural understanding, agencies can more appropriately plan large-scale management, and employ the information in continued consultation with the indigenous community during regulatory actions or undertakings. As a result, the underlying NHPA and NEPA analyses of cumulative impacts and synergies can be made more efficient and minimize conflicts, controversy, legal challenges and procedural delays.

The proposed definition of Tribal Cultural Landscape represents a departure from the current historic preservation model. TCLs do not depend on strict boundary delineation, and they emphasize indigenous self-determination of significance. Additionally, TCLs can expound the worldview of an indigenous group, enabling consideration of contemporary cultural practices, and a clearer understanding of past and future uses of a given area, especially of the value it has to that group. The TCL approach is grounded in guiding principles of indigenous autonomy, which can serve to strengthen tribal capacity in numerous ways, improve long-term relationships among agencies and tribes, and ultimately better preserve and protect shared resources and landscapes.

As a variation of a cultural landscape approach (CLA), currently the subject of much discussion by historic preservation professionals, the TCL approach integrates environmental science with historical, archaeological, and traditional knowledge to provide a robust and cost-effective procedure to document places and resources of past and present significance to tribal communities. This approach also represents an opportunity to integrate management of natural and cultural resources, based on the understanding that humans are part of the landscape, both shaping and being shaped by it.

By offering guidance for agencies and project applicants as well as tribes, the TCL method enables appropriate treatment of culturally sensitive information, which may sometimes be publicly available, but should nonetheless be approached respectfully. The *Guidelines for Tribal Pre-Consultation and Engagement* (see Section 6.1, pages 16-18) can assist agencies and applicants consulting with tribes for specific proposed undertakings, and also help to model a holistic approach to building positive long-term relationships among agencies and tribes who are likely to work together over generations. The *Template for Indigenous Data Collection and Retention* (see Section 6.2, pages 18-20) outlines a method for tribes to collect and retain information from which appropriate summary results can be provided to external parties. Finally, the *Process for Application* illustrates how the TCL approach can be implemented within existing policy, and the potential benefits for both land management and planning, and regulatory processes.

The TCL approach has applicability as part of overall planning processes under NEPA, and as part of planning and regulatory compliance activities under NHPA. The stepwise framework outlined in this Guide provides a method for values-based planning that has broad utility. This model shows how the TCL approach can be feasibly implemented under existing federal policy, illustrating how the steps in the TCL approach align with NEPA and NHPA processes, and at what points they could be implemented. The

TCL approach can assist indigenous communities and agencies in communicating about areas of mutual interest to ensure that both parties have meaningful interactions concerning places and resources. Additionally, it can also allow indigenous groups to target consultation as they see fit and work with agencies to identify and work toward appropriate management of these places and resources.

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Appendix A: Glossary of Terms

This list of terms and topics is intended to enable agencies and project applicants to use appropriate terminology when communicating with indigenous communities, thereby increasing effectiveness of consultation and collaboration, and building relationships based on mutual trust and respect.

Alaska Native Corporation: Any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

Associated group: Indigenous people with a connection to a place or resource. This includes all native tribes and native indigenous communities, regardless of recognition status, which does not impact these groups' sovereignty, interests in ancestral territory and resources, or the validity of traditional knowledge and cultural practices.

Consultation: Per the implementing regulations of NHPA Section 106, consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process (36 C.F.R. § 800.16). Pertaining to Indian tribes, consultation means the process of government-to-government dialogue between the Federal Government and Indian tribes regarding proposed federal actions in a manner intended to secure meaningful and timely tribal input. It is a deliberative process that aims to create effective collaboration and informed federal decision-making. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. The U.S. Government conducts consultation with Indian or Alaska Native tribes, bands, nations, pueblos, villages, or communities that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

Coordination and **collaboration** are essential for effective consultation, but they do not satisfy the requirement of legally mandated government-to-government consultation.

Cultural landscape: A geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values. There are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes. Historic vernacular landscapes evolved through use by the people whose activities or occupancy shaped it, and ethnographic landscapes contain a variety of natural and cultural resources that associated people define as heritage resources (Birnbaum and Peters 1996).

Cultural Landscape Approach: A management approach that uses cultural landscapes as a framework to understand places and their associated resources. This approach is analogous and complementary to ecosystem-based management, and examines the relationships among living and non-living resources, and their environment. This approach enables a better understanding of the human connections to places, as well as the important human influences on ecosystems over time (MPA FAC 2011).

Cultural resources: The broad array of stories, knowledge, people, places, structures, and objects, together with their associated environment, that contribute to the maintenance of cultural identity and/or reveal the historic and contemporary human interactions with an ecosystem. This can include both tangible and intangible cultural heritage. According to UNESCO, **tangible heritage** includes buildings and historic places, monuments, artifacts, etc., which are considered worthy of preservation for the future. These include objects significant to the archaeology, architecture, science or technology of a specific culture. **Intangible heritage** includes the practices, representations, expressions, knowledge, skills – as

well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage.

Culturally sensitive information: Information that is culturally privileged or otherwise controlled or regulated, often by gender, age, or cultural norms. Sharing this knowledge with non-tribal members may be contrary to tribal practices. Even though culturally sensitive information may sometimes be publicly available, respect for the nature of this information must be demonstrated when consulting with tribes.

Federally recognized Indian tribe: Indian tribe, band, nation, or other organized group or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a, including a native village, regional corporation or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (36 C.F.R. § 800.16). Historically, most of today’s federally recognized tribes received federal recognition status through treaties, acts of Congress, presidential executive orders or other federal administrative actions, or federal court decisions. The Federal Government has a unique relationship with Indian tribes derived from the Constitution of the United States, treaties, Supreme Court decisions, and federal statutes. Consultation with a federally recognized Indian tribe must recognize the government-to-government relationship between the Federal Government and Indian tribes, and should be conducted in a sensitive manner respectful of tribal sovereignty (36 C.F.R. § 800.2 and Executive Order 13175).

Indigenous community/group: Descendants of peoples who inhabited the area now encompassed by the United States and its territories at the time of Euro-American colonization, or the establishment of present political boundaries, and who retain some or all of their own social, economic, cultural and political institutions, irrespective of their legal status. “Although such groups lack recognition as sovereigns, they may have environmental and public health concerns that are different from other groups or from the general public. These differences may exist due to a subsistence lifestyle and/or unique cultural practices. Agencies should seek to identify such groups and to include them in decision-making processes. Although they do not have a unique political relationship with the Federal Government, non-federally recognized tribes may be comprised of ‘racial minorities’ and therefore benefit from the full range of civil rights law protections” (NEJAC 2000:10).

Means/manner of connection: It is the responsibility of the tribe or indigenous group to provide a contextual statement regarding connection to place. Connection is likely to be widely varied between tribes and even within tribes. For instance it may be based on ancestral ties to prominent landforms, or to a relatively recent landscape dating to relocation-era displacement but which now holds multigenerational interactions and modified practices such as basketry, hunting, etc.

Distinguishing between MOA and MOU¹¹:

Memorandum of Agreement (MOA): A written agreement that describes in detail the specific responsibilities and actions to be taken by each of the parties so that their goals may be accomplished. Per the implementing regulations of NHPA Section 106, MOA means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties (36 C.F.R. § 800.16). In general, an MOA is legally enforceable. As used by the U.S. Army Corps of Engineers, for example, an MOA is a “conditional agreement” between two or more parties where the transfer of funds for services is anticipated.

¹¹ Per DOI guidance, these terms are used interchangeably based on the preference of the parties. Some parties may differentiate between them, and preferred terminology should be clarified early in project planning.

Memorandum of Understanding (MOU): In general, a writing that describes a very broad concept of mutual understanding, goals, and plans shared by the parties. An MOU is usually not legally binding, and does not involve the transfer of funds.

Native Hawaiian Organization: Any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians. The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii. The NHPA requires the agency official to consult with any Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. (36 C.F.R. § 800.2 and § 800.16).

Programmatic agreement: A document that records the terms and conditions agreed upon to resolve the potential adverse effects of a federal agency program, complex undertaking or other situations in accordance with 36 C.F.R. § 800.14(b) (36 C.F.R. § 800.16).

Project applicant: An applicant for Federal assistance or for a Federal permit, license or other approval is entitled to participate as a consulting party. The agency official may authorize an applicant or group of applicants to initiate consultation with the SHPO/THPO and others, but remains legally responsible for all findings and determinations charged to the agency official. Federal agencies that provide authorizations to applicants remain responsible for their government-to-government relationships with Indian tribes (36 C.F.R. § 800.2).

Relationship: The way or manner in which people (tribes, indigenous group, or others), things, actions and/or place are connected. This is most often based in practices held by a community. These practices are likely to have been modified or changed over time and are likely to continue to develop into the future.

Resource: A feature, material, or supply that can be drawn upon to enhance or contribute to life. This applies to purposes of sustenance and/or quality of life. Most often this encompasses tangible items of importance held by indigenous communities and could include *but not be limited to:* the flora and fauna of an area, as well as hunting, fishing, and gathering locations, archaeological sites, rock features, villages, and burial locations. However, intangible items are also important resources for indigenous communities and may include sacred spaces or places such as creation or prayer areas. Natural phenomena such as wind, water currents, lightning, and thunder are potential attributes associated with resources.

Spatial area: An area of interest defined by a tribe or other indigenous group. It is deliberately all-encompassing and intended to include the diverse and complex understandings of the world held by tribes that pertain to airspace, land surface and below surface dimensions and can be defined by *but not limited to:* oral traditions, ratified or non-ratified treaties, executive orders, statutes (federal or state), cultural use or based on historical documents.

State-recognized Indian tribe: Native American tribes that are recognized by individual states either informally, based on certain dealings with a state over time, or through a formal process instituted by the individual state. State recognition confers limited benefits under federal law and may offer some protection of autonomy. However, this is not the same as **federal recognition**, by which the Federal Government acknowledges a tribe as a sovereign nation. Currently, there are 567 federally recognized tribes and approximately 400 non-federally recognized tribes, many of which are state-recognized.

Traditional Cultural Property (TCP): A property type on the National Register of Historic Places (buildings, structures, sites, historic districts, objects, landscapes) may possess traditional cultural significance, derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. That property would be eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. Because a TCP is a National Register property type, it must have a defined boundary. This can apply to non-indigenous traditional groups (Parker and King 1999).

Traditional [Ecological] Knowledge (TK or TEK): A cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission. It concerns the relationship of living beings (including humans) with one another and with their environment.

Treaty Tribe: A Native American tribe that formally negotiated a treaty with the United States government between 1778 and 1871, which was subsequently ratified by the United States Senate. A treaty is a constitutionally recognized contract between sovereign nations. These legally binding contracts are protected under the U.S. Constitution, which states that they are the “supreme law of the land.” Under these treaties, tribes ceded millions of acres of land while retaining certain rights such as fishing, hunting, and gathering, as well as rights to determine use of reserved land and its resources. As federally recognized tribes, treaty tribes retain a sovereign status and maintain a government-to-government relationship with the United States. The treaties obligate the Federal Government to protect tribal treaty rights, lands, assets, and resources—commonly referred to as a trust obligation.

Tribal Cultural Landscape (TCL): Any place in which a relationship, past or present, exists between a spatial area, resource, and an associated group of indigenous people whose cultural practices, beliefs, or identity connects them to that place. A tribal cultural landscape is determined by and known to a culturally related group of indigenous people with relationships to that place.

Tribal Historic Preservation Officer: In accordance with Section 302702 [Section 101(d)(2)] of the National Historic Preservation Act, THPOs formally assume the responsibilities of the State Historic Preservation Officer (SHPO) for purposes of Section 106 compliance on their tribal lands (all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities). These duties include identifying and maintaining inventories of culturally significant properties, nominating properties to national and tribal registers of historic places, conducting Section 306108 [Section 106] reviews of federal agency projects on tribal lands, and conducting educational programs on the importance of preserving historic properties. Federal agencies consult with THPOs in lieu of the SHPO for undertakings occurring on, or affecting historic properties on, tribal lands. The decision to participate or not participate in the national historic preservation program rests with the tribe.

Undertaking: A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license or approval (36 C.F.R. § 800.16).

Appendix B: Laws and Policies – Excerpts from Pertinent Sections

National Historic Preservation Act (NHPA)

Section 302706 of Title 54 [Section 101(d)(6)]

Eligibility for inclusion on National Register.

(a) IN GENERAL.—Property of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(b) CONSULTATION.—In carrying out its responsibilities under section 306108 of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to property described in subsection (a).

Section 306108 [Section 106] (and its implementing regulations, 36 C.F.R. 800)

Effect of undertaking on historic property.

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

Section 306101-306114 [Section 110]

§ 306101. Assumption of responsibility for preservation of historic property

§ 306102. Preservation program

§ 306103. Recordation of historic property prior to alteration or demolition

§ 306104. Agency Preservation Officer

§ 306105. Agency programs and projects

§ 306106. Review of plans of transferees of surplus federally owned historic property

§ 306107. Planning and actions to minimize harm to National Historic Landmarks

§ 306108. Effect of undertaking on historic property

§ 306109. Costs of preservation as eligible project costs

§ 306110. Annual preservation awards program

§ 306111. Environmental impact statement

§ 306112. Waiver of provisions in event of natural disaster or imminent threat to national security

§ 306113. Anticipatory demolition

§ 306114. Documentation of decisions respecting undertakings

National Environmental Policy Act

Section 101

...it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

Section 102

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

American Indian Religious Freedom Act

...henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

SEC. 2. The President shall direct that various Federal departments, agencies, and other instrumentalities responsible for the administering relevant laws to evaluate their policies and procedures in consultation with Native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices.

Executive Order 13175

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

- (a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

- (1) encourage Indian tribes to develop their own policies to achieve program objectives;
- (2) where possible, defer to Indian tribes to establish standards; and
- (3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Presidential Memorandum of November 5, 2009

History has shown that failure to include the voices of tribal officials in formulating policy affecting their communities has all too often led to undesirable and, at times, devastating and tragic results. By contrast, meaningful dialogue between Federal officials and tribal officials has greatly improved Federal policy toward Indian tribes. Consultation is a critical ingredient of a sound and productive Federal-tribal relationship.

My Administration is committed to regular and meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications including, as an initial step, through complete and consistent implementation of Executive Order 13175. Accordingly, I hereby direct each agency head to submit to the Director of the Office of Management and Budget (OMB), within 90 days after the date of this memorandum, a detailed plan of actions the agency will take to implement the policies and directives of Executive Order 13175. This plan shall be developed after consultation by the agency with Indian tribes and tribal officials as defined in Executive Order 13175. I also direct each agency head to submit to the Director of the OMB, within 270 days after the date of this memorandum, and annually thereafter, a progress report on the status of each action included in its plan together with any proposed updates to its plan.

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Appendix C. Project Fact Sheet



Characterizing Tribal Cultural Landscapes

Documenting culturally important areas — for tribes, by tribes



Salmon River estuary in Oregon.

Purpose and Goals

Understanding the types and locations of significant archaeological and cultural resources is essential to their preservation and consideration during the planning process for offshore renewable energy development. The goal of this project is to develop a proactive approach to working with Native American communities to identify areas of tribal significance that need to be considered in the planning process. Information from this effort will help facilitate decision-making processes that take into consideration the importance of these locales, and give tribal communities a more powerful voice during regional energy planning.

Characterizing Tribal Cultural Landscapes is a collaborative effort among the Bureau of Ocean Energy Management (BOEM), NOAA’s Office of National Marine Sanctuaries, the National Marine Protected Areas Center, a Tribal Facilitator, and the Tribal Historic Preservation Offices of the Yurok Tribe in California, Confederated Tribes of Grand Ronde in Oregon, and Makah Tribe in Washington.

A Cultural Landscape Approach

Using a holistic cultural landscape approach that integrates science with historical, archaeological and traditional knowledge, this project will develop:

- A tool describing best practices for tribes to identify and communicate areas of significance, and;
- Case studies from three tribes demonstrating how to use this tool.

This effort will provide a transferable, transparent and cost-effective method for tribes with a connection to the coast to document past and present places and resources significant to their communities and outside agencies, thus enhancing their capability for consultation.



Archaeological field school on Makah Reservation, led by THPO.

Cultural resource types to be identified include:	Project activities will include:
<ul style="list-style-type: none"> • traditional cultural properties • traditional subsistence and commerce activities • residential and occupational activities • spiritual and ceremonial sites and activities 	<ul style="list-style-type: none"> • archival research • field investigations and site visits • community outreach • oral histories



Characterizing Tribal Cultural Landscapes

Documenting culturally important areas — for tribes, by tribes



The project will involve:

Inter-Tribal Workshops bringing together federal and tribal partners to identify best practices and general resources significant to tribal communities.

Analysis Guide describing processes for identifying tribal cultural landscapes, including common terminology.

Case Studies identifying tribal cultural landscapes for each of the three identified tribes. Databases will be created by each tribe and managed by each tribe.

Outreach describing the process, including methodologies, analysis and non-sensitive data.



Yurok singing to Klamath River whale from canoe.



Memorial Post at the mouth of the Salmon River, to honor the Neschesne people and the village that stood there. Carved by Grand Ronde artist, Travis Stewart.

The model will be adaptable by other Native American communities to help equip them to record geospatial information and attributes on areas of tribal importance. It will also facilitate communication among tribes, as well as help agencies and stakeholders to:

- Engage with tribal and indigenous communities prior to the proposal of activities that may impact tribal resources and areas;
- Involve tribal and indigenous communities in the confidential identification of their own significant resources and areas of use; and
- Clarify and promote tribal interests in specific planning areas.

This project will help regional energy planning and siting decisions, and the required impact assessments, be made more soundly and efficiently, thus minimizing potential conflicts, controversies, legal challenges and delays. This approach can also help fill a critical data gap in ocean planning and management, and be applied to coastal and marine spatial planning efforts through the National Ocean Council and Regional Planning Bodies. Although this project is not directly related to these specific efforts, the approach can be valuable in helping agencies and stakeholders communicate more effectively and appropriately with tribes, and involve them in the process.

Timeline

2012		2013			2014			
Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec
Workshops								
Draft Analysis Guide								
Case Studies								
					Final Analysis Guide and Webpage			

Funding: This project is funded by the U.S. Department of the Interior, Bureau of Ocean Energy Management, through an Interagency Agreement with the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service.

For more information, please contact: Valerie Grussing@noaa.gov
 Robert Steelquist: Robert.Steelquist@noaa.gov
 Dave Ball: David.Ball@boem.gov



Appendix D: Procedural Considerations for Project Planning and Conducting Meetings

Who:
Team members, alternates, as well as spokespersons. Resource personnel, including professional facilitator/s. Observers. Brief bios and specific role function, expertise, background.
Where:
Location of site—Consider alternating between agency and tribe. Logistics and expenses, including meals, snacks, other. Breakout rooms for caucusing. Table and seating arrangements.
When:
Dates, times, frequency, timeframe. Project completion date and other deadlines.
Agenda and ground rules development:
How, when, who? Parameters of subject matter? Rules of behavior and courtesy. Revisions and additional items.
Decision-making:
Decision-makers present? Overall ratification, as well as whether ratification process needed outside table process? What are the “decision rules”? E.g., consensus, majority, a mixture?
Records and information-sharing:
Confidentiality issues. What methods for official recording of process? What format? How, when, and with whom will official records be shared? Personal note taking. Notices (including proposed agendas) and schedules (timely!).
Media:
Confidentiality and sensitivity issues. Press contacts and releases. Inquiries. Joint presentations.
Process for table meetings:
Cultural considerations, e.g., opening and closing prayer. Seating configuration. Discussion format and “Decision rules.” Meeting roles, e.g., facilitators, chairpersons, timekeepers, note-takers, etc. Dispute resolution agreement and breaking impasse – formal/informal processes & conditions. Breaks.

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Appendix E: Workshop Letters of Invitation



**Confederated Tribes of
Grand Ronde**
9615 Grand Ronde Rd.
Grand Ronde, OR 97347

**Bureau of Ocean Energy
Management**
770 Paseo Camarillo, 2nd Fl.
Camarillo, CA 93010



30 June 2013
[Federal Agency]
[Address]
[City] [State] [Zip]

Re: Tribal Cultural Landscapes Workshop & Analysis Guide Development (27-28 August 2013)

Dear [Regional Administrator/Director]:

As Tribal Chairman of the Confederated of Tribes of the Grand Ronde Community of Oregon and Director of the Bureau of Ocean Energy Management's Pacific Region office, we invite you and your staff to participate in the upcoming Tribal Cultural Landscapes Workshop being held in Grand Ronde, Oregon, on August 27th and 28th, 2013. This workshop is intended to be a forum contributing to the development of methodological tools for recording and discussing Tribal Cultural Landscapes and cultural resources sensitive to tribes.

This is a collaborative project between with the Tribal Historic Preservation Offices of the Confederated Tribes of the Grand Ronde Community of Oregon, Makah Tribe of Washington, Yurok Tribe of California, a Tribal Facilitator, the Bureau of Ocean Energy Management (BOEM), and the Office of National Marine Sanctuaries, as well as the National Marine Protected Areas Center, of the National Ocean Atmospheric Administration (NOAA). Understanding the types and locations of significant archaeological and cultural resources is essential to their consideration and protection during the planning process for offshore renewable energy development. The goal of this project is to develop a proactive approach for Native American communities to identify areas and resources of Tribal significance that need to be considered in the planning process. Information from this workshop will be incorporated into a *Best Practices Guide and Methodology*. It is intended to facilitate decision-making processes that include consideration of culturally significant locales. This study is not affiliated or connected with other efforts undertaken by these tribes or agencies.

Because we feel this is such an important topic, and a unique opportunity to develop a process for inclusion of Tribal voices into decision-making processes, we have reserved two seats for representatives of your tribe. The Workshop will provide invitational travel for these two representatives.

Attendance at the Workshop is by invitation only and is an opportunity for tribal staff responsible for cultural resource protection, and federal and state agencies with marine jurisdiction to collaborate in developing a set of standards and expectations for recording tribal cultural resources. The intent is to develop a mechanism through which tribes can record culturally sensitive information and support confidentiality concerns, while providing relevant information to agencies for development purposes. The outcome of the two-year project will be a methodology that reinforces tribal sovereignty and encourages meaningful consultation by agencies early in proposed undertakings, while insuring protection of sensitive information and resources.

In this time of budget cuts and limited resources, agencies and tribes need to pull together to find creative and effective solutions to important issues which frequently overlap multiple agency jurisdictions. The Workshop will be a valuable opportunity for cultural protection staff to help develop processes to include tribal voices early in decision-making processes. We hope you will be able to participate and represent your tribe in these talks with other tribal leaders.

The first day of the workshop will be dedicated to tribes; allowing for open and candid discussion of concerns about Tribal Cultural Landscapes: what they mean, how they are identified, and how to record and ultimately protect them. The second day will be open to agency staff. This portion of the Workshop has been set aside for tribal, federal, and state cultural resources staff to openly discuss these issues in a facilitated setting. Specific topics for the discussion are currently being identified. We are soliciting input from tribal leaders, and welcome any suggestions you have. The final topics will be shared with you in the next month.

We look forward to seeing you at the Workshop. Please contact Briece Edwards, Tribal Cultural Landscape Workshop coordinator, at 503-879-2084 or Briece.Edwards@GrandRonde.org to confirm your participation and to obtain additional information.

Sincerely,

Reyn Leno
Tribal Council Chairman
Confederated Tribes of Grand Ronde

Ellen G. Aronson
Director, Pacific OCS Region
Bureau of Ocean Energy Management



Makah Tribe
P.O. Box 115
Neah Bay, WA 98357

**Bureau of Ocean Energy
Management**
770 Paseo Camarillo, Ste 200
Camarillo, CA 93010



INVITATION
Tribal Cultural Landscapes Workshop & Analysis Guide Development
(September 25-26, 2013)

As Tribal Chairman of the Makah Indian Tribe and Director of the Bureau of Ocean Energy Management's Pacific Region office, we invite you and your staff to participate in the upcoming Tribal Cultural Landscapes Workshop being held in Port Angeles, Washington, on September 25 and 26, 2013. This workshop is intended to be a forum contributing to the development of methodological tools for recording and discussing Tribal Cultural Landscapes and cultural resources important to tribes.

This is a collaborative project between the Tribal Historic Preservation Offices of the Makah Tribe of Washington, Confederated Tribes of the Grand Ronde Community of Oregon, Yurok Tribe of California, a Tribal Facilitator, the Department of the Interior Bureau of Ocean Energy Management (BOEM), and the Office of National Marine Sanctuaries and the National Marine Protected Areas Center of the National Ocean Atmospheric Administration (NOAA). Understanding the types and locations of significant archaeological and cultural resources is essential to their consideration and protection during the planning process for offshore renewable energy development. The goal of this project is to develop a proactive approach for Native American communities to identify areas and resources of Tribal significance that need to be considered in the offshore renewable energy planning process. Information from this workshop will be incorporated into a *Best Practices Guide and Methodology*. It is intended to facilitate decision-making processes that include consideration of culturally significant locales. This study is not affiliated or connected with other efforts undertaken by these Tribes or agencies.

Because we feel this is such an important topic and a unique opportunity to develop a process for inclusion of Tribal voices into decision-making processes, we have reserved one seat for a representative of your tribe and will provide travel assistance for this representative.

Attendance at the Workshop is by invitation only and is an opportunity for tribal staff responsible for cultural resource protection and federal and state agencies with marine jurisdiction to collaborate in developing methods and expectations for recording tribal cultural resources. The intent is to develop a mechanism through which tribes can record culturally sensitive information and support confidentiality concerns, while providing relevant information to agencies for development purposes. The outcome of the two-year project will be a methodology that reinforces tribal sovereignty and encourages meaningful consultation by agencies early in proposed undertakings, while insuring protection of sensitive information and resources.

In this time of limited resources, agencies and tribes need to pull together to find creative and effective solutions to important issues that frequently overlap multiple jurisdictions. The Workshop will be a valuable opportunity for cultural resource protection staff to help develop processes to include tribal input early in decision-making processes. We hope you will be able to participate and represent your tribe in these talks with other tribal leaders.

The first day of the workshop will be divided in two sections, one for Tribes and one for agencies, allowing for open and candid discussion of concerns about Tribal Cultural Landscapes: what they mean, how they are identified and how to record and ultimately protect them. The second day will join the two

groups. This portion of the Workshop has been set aside for tribal, federal and state cultural resources staff to openly discuss these issues in a facilitated setting. Specific topics for the discussion are currently being identified. We are soliciting input from tribal leaders and welcome any suggestions you have. The final topics will be shared with you in the next month.

We look forward to seeing you at the Workshop. Please contact Janine Ledford, Makah Tribal Historic Preservation Officer (makahthpo@centurytel.net), to confirm your participation and to obtain additional information.

Sincerely,

Timothy J. Greene, Sr.
Chairman,
Makah Tribal Council

Ellen G. Aronson
Director, Pacific OCS Region
Bureau of Ocean Energy Management



Yurok Tribe
190 Klamath Blvd.
Klamath, CA 95548

**Bureau of Ocean Energy
Management**
770 Paseo Camarillo, Ste 200
Camarillo, CA 93010



INVITATION
Tribal Cultural Landscapes Workshop & Analysis Guide Development
(December 3rd and 4th, 2013)

As Tribal Chairman of the Yurok Tribe of California and Director of the Bureau of Ocean Energy Management's Pacific Region office, we invite you and your staff to participate in the upcoming Tribal Cultural Landscapes Workshop being held in Klamath, California, on December 3rd and 4th, 2013. This workshop is intended to be a forum contributing to the development of methodological tools for recording and discussing Tribal Cultural Landscapes and cultural resources sensitive to tribes.

This is a collaborative project between the Tribal Historic Preservation Offices of the Confederated Tribes of the Grand Ronde Community of Oregon, Makah Tribe of Washington, Yurok Tribe of California, a Tribal Facilitator, the Department of the Interior Bureau of Ocean Energy Management (BOEM), and the Office of National Marine Sanctuaries, as well as the National Marine Protected Areas Center, of the National Ocean Atmospheric Administration (NOAA). Understanding the types and locations of significant archaeological and cultural resources is essential to their consideration and protection during the planning process for offshore renewable energy development. The goal of this project is to develop a proactive approach for Native American communities to identify areas and resources of Tribal significance that need to be considered in the offshore renewable energy planning process. Information from this workshop will be incorporated into a *Best Practices Guide and Methodology*. It is intended to facilitate decision-making processes that include consideration of culturally significant locales. This study is not affiliated or connected with other efforts undertaken by these Tribes or agencies.

Because we feel this is such an important topic, and a unique opportunity to develop a process for inclusion of Tribal voices into decision-making processes, we have reserved one seat for a representative of your tribe and will provide invitational travel for this representative.

Attendance at the Workshop is by invitation only and is an opportunity for tribal staff responsible for cultural resource protection and federal and state agencies with marine jurisdiction to collaborate in developing a set of standards and expectations for recording tribal cultural resources. The intent is to develop a mechanism through which tribes can record culturally sensitive information and support confidentiality concerns, while providing relevant information to agencies for development purposes. The outcome of the two-year project will be a methodology that reinforces tribal sovereignty and encourages meaningful consultation by agencies early in proposed undertakings, while insuring protection of sensitive information and resources.

In this time of limited resources, agencies and tribes need to pull together to find creative and effective solutions to important issues that frequently overlap multiple agency jurisdictions. The Workshop will be a valuable opportunity for cultural protection staff to help develop processes to include tribal voices early in decision-making processes. We hope you will be able to participate and represent your tribe in these talks with other tribal leaders.

The first day of the workshop will be divided in two sections, one for Tribes and one for Agencies, allowing for open and candid discussion of concerns about Tribal Cultural Landscapes: what they mean, how they are identified, and how to record and ultimately protect them. The second day will join the two groups. This portion of the Workshop has been set aside for tribal, federal, and state cultural resources staff to openly discuss these issues in a facilitated setting. Specific topics for the discussion are currently being identified. We are soliciting input from tribal leaders, and welcome any suggestions you have. The final topics will be shared with you in the next month.

We look forward to seeing you at the Workshop. Please contact Robert McConnell, Yurok Tribe Heritage Preservation Officer (rmcconnell@yuroktribe.nsn.us), to confirm your participation and to obtain additional information.

Sincerely,

Thomas P. O'Rourke
Tribal Council Chairman
Yurok Tribe

Ellen G. Aronson
Director, Pacific OCS Region
Bureau of Ocean Energy Management

Appendix F: Project Team Member Biographies

David Ball

Regional Historic Preservation Officer, Pacific OCS, Bureau of Ocean Energy Management

Dave Ball is the Regional Preservation Officer and Tribal Liaison Representative for the Pacific Region of the Bureau of Ocean Energy Management (BOEM). Dave joined the BOEM Gulf of Mexico Region office in 1999 and transferred to the Pacific Region office in 2010. Before joining BOEM he worked for several archaeological consulting firms in the Pacific Northwest. He received a Bachelor of Arts degree in anthropology from Sonoma State University in 1992 and a Master of Arts degree in anthropology from Florida State University in 1998. Dave has over 25 years' experience in archaeology and has directed field research on both terrestrial and underwater archaeological sites across the country, including inundated prehistoric sites in Florida and Washington, World War II shipwrecks, and deepwater shipwrecks in the Gulf of Mexico. Dave is a member of the Register of Professional Archaeologists and currently serves on the Advisory Council on Underwater Archaeology, an international advisory organization for submerged cultural heritage.

Rosie Clayburn

Acting Cultural Resources Manager, Yurok Tribe

Rosie Clayburn is the acting Cultural Resources Manager for the Yurok Tribe. She is also an enrolled member of the Yurok Tribe and a descendent from the village of Tue-rep along the Klamath River. Rosie completed a Masters of Art in Museology from the University of Washington focusing her thesis on collecting of Yurok objects by institutions around the world. Previous to this she completed a Bachelor's of Science in Anthropology, with a concentration in Archaeology and Cultural Resource Management. She was raised on the Klamath River and has stayed very connected through fishing, gathering on the coast and being involved in ceremonies. Throughout pursuing her education, Rosie returned home and interned for the Tribe and gained experience in Cultural Resource Management at the Tribe for ten years. Rosie has been working as the Principal Investigator for the Tribe now for more than two years and meets the Secretary of Interior qualifications for archaeology. She has completed numerous cultural resources studies that focus on Traditional Cultural Properties and Traditional Landscapes throughout Yurok ancestral territory.

Roberta Reyes Cordero, JD

Facilitator (Member, Coastal Band of the Chumash Nation)

A 1989 graduate of University of Washington School of Law, Ms. Cordero has been a professional peacemaker since 1987, specializing in cross-cultural, large group, and family mediation. Working nationwide, she is a conflict management consultant, trainer, and coach for conflict management, dispute resolution, workplace cultural change, interpersonal to intercultural communication, negotiation, mediation and facilitation working with Federal agencies and tribal entities alike. In 1995/6 with a small group of local Chumash people in Santa Barbara, she co-founded the Chumash Maritime Association, a non-profit group active in revitalizing indigenous maritime heritage. Ms. Cordero remains active in environmental and land use issues impacting her Chumash and California homeland.

She has served on the Channel Islands National Marine Sanctuary's Advisory Council, was a tribal representative on the California Marine Life Protection Act Initiative's (MLPAI) South Coast Regional Stakeholders Group, and also served on the Blue Ribbon Task Force for the North Coast MLPAI. She serves on the Cultural Heritage Resource Working Group of the Marine Protected Areas Federal Advisory Committee and is a member of Association for Conflict Resolution and of the Native Network of US Institute for Environmental Conflict Resolution.

Currently, Ms. Cordero is the Tribal Facilitator for the Characterizing Tribal Cultural Landscapes project, a collaborative effort of Bureau of Ocean Energy Management (BOEM), NOAA, and the National Marine Protected Areas Center. Working closely with the Yurok Tribe, the Grand Ronde Confederation of Tribes, and the Makah Tribe, this pilot project will develop a method for coastal tribes to document places

and resources of both past and present significance to their communities, thus enhancing their capability for consultation. She is proud of her first and best teachers, her five grown children and nine grandchildren.

Briece R. Edwards

Archaeologist, Confederated Tribes of Grand Ronde

Briece is archaeologist for the Confederated Tribes of Grand Ronde Community of Oregon, based in the Tribal Historic Preservation Office. He coordinates cultural resource actions on Tribal Lands as well as develops and maintains the Tribe's Site Inventory. As archaeologist, he is dedicated to developing partnerships with agencies and organization for the protection of cultural resources throughout the Tribe's ceded lands. He serves as the Tribe's Cultural Resources compliance review contact for multiple state and Federal agencies as well as coordinates interns and special projects within the THPO/Cultural Resources Protection Program. He has also been responsible for the development of the Program's GIS system to record, track, and monitor cultural resources of importance to the Tribe as well as the Traditional Cultural Landscape Project. Briece has a BA in Anthropology from the University of Maryland and MA from North Carolina State University and MPhil at the University of Bradford.

Valerie J. Grussing

Cultural Resources Coordinator, National Marine Protected Areas Center

Valerie graduated from North Carolina State University with a BA in History, where she participated in her first archaeological excavation at a Roman site in Jordan. She graduated from the University of Iowa with an MA in Anthropology, where she participated in a Late Upper Paleolithic excavation in France. She obtained her Ph.D. in December 2009 from the Coastal Resources Management Program at East Carolina University, specializing in the Maritime Studies track. While attending ECU, she worked on the Queen Anne's Revenge Shipwreck Project, excavating, conserving, and illustrating the remains of the shipwreck believed to be that of the pirate Blackbeard. Her dissertation, "Reanimating the Graveyard: Heritage Tourism Development of North Carolina Shipwrecks," is a comparative evaluation of ten programs designed to protect and interpret shipwrecks, concluding with a series of recommendations for North Carolina to expand such programs. Previously, Valerie has worked as a graduate assistant, a teaching assistant, an archaeological field and lab technician, an archaeological illustrator, and an intern with the Hunley Project at the Clemson Conservation Center. Valerie began working as the MPA Center's Cultural Resources Coordinator in August 2009.

Janine Ledford

Executive Director, Makah Cultural and Research Center

Janine is the Executive Director of the Makah Cultural and Research Center, a position she has held since 1995. As the Director she oversees the Makah Language Program, the Archives and library, the Education Department, and Curation/Exhibits. Ms. Ledford is also the Makah Tribal Historic Preservation Officer. Ms. Ledford is an enrolled Makah Tribal member and lives on the Makah Indian Reservation with her four children (one is in University). She wrote a chapter for "Coming To Shore: Northwest Coast Ethnology, Traditions, and Visions Edited by Marie Mauze, Michael Harkin and (Dartmouth Professor) Sergie Kan. University of Nebraska Press 2004.

Ms. Ledford serves on the Washington State Governor's Advisory Council for Historic Preservation, is the Chairperson for the National Association for Tribal Historic Preservation Officers, and is the Chairperson for the Makah Tribe's Higher Education Committee.

Robert McConnell

Former Tribal Heritage Preservation Officer, Yurok Tribe

Originally hired in 1996 as a cultural resource field tech, Robert has worked his way through the Yurok Tribe Cultural Program, holding titles of Lead Field Archaeologist, Cultural Resource Coordinator and serves the Tribe under position of Yurok Tribe Heritage Preservation Officer, being appointed in October

of 2008. He has held the position of Designated Tribal Representative to the United States Forest Service during fire events since 2004. He also chairs of the Coalition to Protect Yurok Cultural Legacies at O'pyuweg. During his time with the Tribe, he has conducted 50 video recorded interviews and 30 taped interviews. In addition, he has recorded hundreds of Yurok cultural resources, including fishing sites, hunting camps, gathering areas, trails, villages, and ceremonial sites during his work before assuming THPO duties.

Robert lives on the Hoopa Valley Indian Reservation with Deborah, his wife of 36 years. They have raised 6 children, have 12 grandchildren, and are expecting grandchild number 13 in early May. Robert is also 'poi we son' for the traditional Yurok village of Wah sek during the semi-annual white deerskin ceremony held in Weitchpec.

Rebekah Monette

Manager, Tribal Historic Preservation Office, Makah

Rebekah is the Makah Tribal Historic Preservation Office Manager at the Makah Cultural and Research Center, a position she has held since 2001. As the THPO Manager she reviews Section 106 requests, manages the Makah Tribe's records related to cultural sites, coordinates and participates in field work on and off the Makah Indian Reservation, and works on projects related to conservation, curation and exhibit development. Ms. Monette is an enrolled Makah Tribal member and lives on the Makah Indian Reservation with her husband and four children. She is also the Head Coach of the Neah Bay High School Volleyball team.

Robert Steelquist

Outreach Coordinator (Ret.), Olympic Coast National Marine Sanctuary

Robert Steelquist is a writer, naturalist and educator. Since December, 1994, Bob has been Education and Outreach Coordinator for Olympic Coast National Marine Sanctuary. In addition, he has served as the staff lead for cultural resource management at the sanctuary and has many years of experience working collaboratively with partner organizations, including the Makah, Quileute and Hoh Tribes and Quinalt Indian Nation. He also serves as the manager for a NOAA education grants program, the Pacific Northwest Bay-Watershed Education and Training Grants program, funding environmental education projects in Oregon and Washington.

Eirik Thorsgard

Former Tribal Historic Preservation Officer, Confederated Tribes of Grand Ronde

Eirik is a tribal member of the Confederated Tribes of Grand Ronde community of Oregon. He was the Tribe's appointed Historic Preservation Officer and coordinator of the Cultural Protection Program. He received his Master's degree in archaeology from Oregon State University and is currently in the final stages of completing a PhD in the same discipline. In recent years he has developed the Tribe's THPO program into a model for other's seeking to establish the federally recognized Office. His perspective on Cultural Heritage stems from understanding resources and their loci of practice; understanding practice leads to the identification of place. He regularly participates in cultural events and practices sponsored by his Tribe. He is actively engaged in research relevant to the identification and protection of Traditional Cultural Places in his ancestral lands and beyond. He has been appointed to numerous professional councils and committees with the focus on Cultural Heritage identification and protection. He is the proud father of five children and lives in Mariposa, CA where he currently works as the Park Cultural Anthropologist and American Indian Liaison for Yosemite National Park.

John Townsend

Facilitator

Jon Townsend is a mediator with a national and international focus. He has taught and teaches at a variety of schools and universities, including Humboldt State University's Institute for Study of Alternative

Dispute Resolution (ISADR), Sonoma State University, where he co-developed the Conflict Resolution Program and teaches negotiation, mediation and cultural diversity courses and the University of Oregon CRES program where he taught intercultural communication (2012) and mediation 2013-2014.

Jon has conducted numerous workshops and provided mediation and facilitation services throughout the United States, as well as consultations and trainings in Nicaragua, Mexico, Costa Rica, the former USSR, Russia, Guatemala, Ecuador, Cuba, Canada, Australia and Poland and England. In 2005, 2006, 2007 and 2008 Jon trained English mediators for England's largest community-based mediation program in beginning and advanced mediation and advanced negotiation. He provided intermediate and advanced mediation training for German mediators in Hamburg in 2010. He co-facilitated the Department of Interior's Government-to-Government Federal and Tribal TCT (Tribal Consultation Team). The team was composed of 25 Tribal Leaders and 25 Federal Officials who developed DOI's G2G Umbrella policy on consultation. He is currently working with the Department of Defense and the Coast Guard on developing Government-to-Government communication and negotiation best practices. Jon has worked with over 150 Tribal governments and organizations. Jon is a citizen of the Muscogee (Creek) Indian Nation. He has a Master's Degree in Psychology from Sonoma State University and is a member of the United Association of Labor Educators (UALE).

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Department of the Interior (DOI)

The Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities.



Bureau of Ocean Energy Management (BOEM)

The mission of the Bureau of Ocean Energy Management is to manage development of U.S. Outer Continental Shelf energy and mineral resources in an environmentally and economically responsible way.