



# National Preservation Institute

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## Consultation and Protection of Native American Sacred Lands

### Seminar Overview

Explore the consultation process mandated by federal laws as it pertains to Native American sacred lands. Review the guidelines from both tribal and federal land-managing agencies' perspectives. Consider the legal, historical, and cultural factors that influence consulting parties. Discuss ways to use the consultation process in conjunction with other tools, such as land trusts, restrictive covenants, and property purchases by tribes or nonprofit conservancies, to achieve a protected status for culturally significant places.

### Agenda

#### Agency and Tribal Perspectives: Wrestling with Cultural Paradigms

- Integrating federal mandates with tribal beliefs

#### Definitions

- Consultation – according to whom?
- Cultural resources
  - Cultural landscapes
  - Ethnographic landscapes
- Native American

#### Federally recognized tribe

- Non-recognized tribe
- Trust responsibility

#### Legal Framework:

- Constitution
- Treaties
- Canons of Construction

#### Agency Responsibilities

#### Tribal Roles

#### National Historic Preservation Act

- Sections 101, 106, and 110

#### National Register of Historic Places

- Separation of religion and culture
- Nomination forms
- What the process does and does not do for the resource
- When to nominate and when not to
- Eligibility determinations
- Consideration of a place as eligible

#### National Environmental Policy Act

- Cultural environment
- How it may be used for sacred lands

#### Executive Orders 12898, 13007, and 13175

- Why they are useful

#### NAGPRA

- What it is and isn't
- Using it in conjunction with the other laws
- Agency vs. tribal perspectives on NAGPRA responsibilities
- Ways of dealing with these perceptions

#### AIRFA

- What it is and isn't
- What can you expect from it?

#### Case Law

#### When the laws overlap and how to use them

- Tribal land
- Federal land

#### Avoidance vs. acceptance of management options within the laws and regulations

- Consultation processes
- Strategies
- Other options

#### Hypothetical Case Study Workshop

#### Planning a Project

- Contacting, consulting, identification of places and effects of the project to them
- Resolving Conflicts

#### Workshops (role playing)

#### What if the conflicts cannot be resolved?

- Projected outcomes

#### Wrap-up and Conclusions