

Outline from Module 2

OUTLINE: Tribal Cultural Resource Management Module 2 / Week 2

Notes Topic: Cultural Resource Protection Legal Frameworks

1. Sacred site and cultural site protection strategies typically involve three types of laws:
 - a. historical protection;
 - b. environmental protection and
 - c. cultural protection (intellectual property/religious freedom).
2. Early, cultural resource protection laws were **NOT** focused on protecting the “totality of a site” with tribal consultation (*input*) for continuing use by a tribe or tribal people.
 - a. The focus was on preserving the artifacts associated with that site for study by the broader American public.
3. A site generally refers to a bounded location such as an identified and recorded archaeological site where a landscape includes a greater geographic area that may encompass the specific plants and animals, water resources, “viewscape,” the land below, and the airspace above a particular site.
 - a. Cultural landscapes are landscapes that have been affected, influenced, or shaped by human involvement. A cultural landscape can be associated with a person or event. It can be thousands of acres or a tiny homestead. It can be a grand estate, industrial site, park, garden, cemetery, campus, and more. Collectively, cultural landscapes are works of art, narratives of culture, and expressions of regional identity. <https://tclf.org/places/about-cultural-landscapes>
 - b. View this: <https://www.nps.gov/subjects/culturallandscapes/understand-cl.htm>

OUTLINE: Guide Document for Characterizing Tribal Cultural Landscape

1. The guide presents a method for agencies to consult with tribes more effectively and appropriately in advance of any proposed undertakings historical protection;
 - a. NOTE this is a guide so this is not universally accepted at all agencies
 - b. 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.
 - c. federal agencies are only required to conduct government-to-government consultation with federally recognized tribes
 - d. This document is 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
2. Linda Tuhiwai Smith’s, Smith articulates the process in which many indigenous peoples and their supporters are engaged via revitalization of indigenous cultures/this is the basic premise of TCL framed in the following principals:
 - a. Indigenous determination of research needs and priorities;
 - b. Indigenous articulation of the ways research should proceed;
 - c. Training of indigenous researchers and extending opportunities for indigenous peoples;
 - d. Discussion of culturally appropriate ethics, and ongoing development of culturally sympathetic methods;
 - e. Increased collaboration among tribes;
 - f. Tribal development and dissemination of literature on research;
 - g. Continued self-reflection, evaluation and critique of the community of indigenous researchers;
 - h. Education of the wider research and government community, including scientific, academic and policy communities regarding principles 1-7 above; and
 - i. Accountability to and outcomes for tribes.

3. cultural landscape approach (CLA) - 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 community.
4. The Tribal Cultural Landscape (TCL) approach (Pg. 5)
 - a. Properly engage with tribal and indigenous communities prior to the proposal of activities that may impact tribal resources and areas;
 - b. Involve tribal and indigenous communities in the identification of their own significant resources and areas of use; and
 - c. Clarify tribal interests in specific planning areas.
5. Tribal Cultural Properties
 - a. Some tribes were relocated due to displacement or treaties and may be extant today in places other than where they originated. (Pg. 6)
 - b. TCPs and TCLs is that the latter are defined as significant by indigenous communities, rather than by exterior criteria
 - c. TCP can refer to places of importance to any community, not just indigenous communities
 - d. TCL carries the same meaning and utility as this phrase and encompasses indigenous communities more inclusively.
6. TCL approach can also help minimize conflicts, controversy, legal challenges (Pg. 8)
7. Traditional Knowledge (TK) may be privileged or otherwise controlled or regulated by cultural constraints within a tribe.
 - a. 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
 - b. indigenous ways of knowing about the environment may differ fundamentally from those of most non-native or industrialized societies
 - i. the indigenous paradigm regards humans as an integral and inseparable part of nature, with a continuous duty of care for its sustainability.
 - ii. 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
 - c. Each tribe is unique, influenced by its local environment, as is its traditional knowledge

OUTLINE: No Outline

MODULE 2/WEEK 2 QUESTIONS

Here are a few notes on the questions that may help. REMEMBER they are just notes and may not fit in total to the answers. You must read through the materials with this as a small framework to help guide you to your answers.

1. **As discussed in the Guidance Document, how does a Cultural Landscape Approach differ from the standard approach used by agencies with respect to tribal cultural resources?**
 - Primarily it utilizes Tribal Consultation. It starts with the Tribe utilizing Traditional Knowledge and involvement with the regional Tribe. Only then will the hierarchy of importance or significance be determined.
 - Note that cultural landscape approach (CLA) is defined as - 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 community
 - Standard approaches are **NOT** focused on protecting the “totality of a site” with tribal consultation (*input*) for continuing use by a tribe or tribal people

2. **Using the Guidance Document, explain how connection to place is key to tribal cultural identity and definitions of traditional cultural landscapes and resources. How does the current Western framework accommodate this sense of place?**
 - Linda Tuhiwai Smith's articulates Increased collaboration among tribes and is the basic premise (along with others) of TCL
 - Traditional Knowledge (TK) is the indigenous paradigm regards humans as an integral and inseparable part of nature, with a continuous duty of care for its sustainability. TK is the significant as property, identified among traditional stories is plays role the property in a community's historically rooted beliefs, customs, and practices
 - Each tribe is unique, influenced by its local environment, as is its traditional knowledge
 - Combined understanding of Tribal connection or cultural understanding, of the region, enhances the government to government relationship and dealings as this mitigates future claims by each party. Stating this we can see that both sides has a greater understanding what should be preserved.
 - Western framework does this but with limited ideals to on real property and not within the framework of environment and landscape.

3. What is traditional knowledge? How can such knowledge be used to describe a Traditional Cultural Landscape and what are some barriers that the Guidance Document suggests might exist in sharing such information with agencies?
 - Oral histories may indicate specified locations of religious/creation story that act as boundaries or areas of sacred sites.

4. Describe the conflict identified in Archuleta's article between indigenous legal principles and those inherent in Western law.
 - **No Outline Guide**

5. Using the readings, please identify and discuss difficulties that you see in protecting tribal cultural resources within the existing Western legal framework.
 - Currently, western framework is holds only real property within (mostly) the boundaries of Tribal Lands. Traditional Territory may extend beyond today's reservation boundaries. Defined by Traditional knowledge, tribal landscape maybe considered in locations where specific plant life is utilized or nesting grounds of animals that impact the tribes culturally.
 - Because of relocation of Tribes, Tribal Cultural Resources are difficult, as there may be overlapping use areas. Thus, there is great danger in not utilizing Tribal consultation.
 - Cultural landscape may be on private lands.
 - Property is the basis for western capitalism ideals therefore private property is king.