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When Forever Comes, We Will Be Here: Cultural Resource Management and Indigenous Peoples of the Pikes Peak Region

by Nathan Goodman, 2017-18 State of the Rockies Project Fellow

Indigenous peoples' claims to ancestral lands in the Pike's Peak Region are moderated through a complex, multi-lateral policy network that often fails to account for traditional world views. This research explores tribal consultation – both theoretically and in praxis – in depth, along with a comprehensive analysis of problems intrinsic to intergovernmental cultural resource management. Research conducted in summer of 2017 examines best methods practices, interrogates notions of 'meaningful consultation' and 'creative mitigation', and explores means of engaging more effectively in a 'bicognizant' worldview. Methodologically, this research is based on thirty-five interviews with local, state, federal, and tribal, and private policy actors as well as extensive fieldwork on the Southern Ute Reservation in southwestern Colorado. Seldom does academic literature consider the implications of Indigenous displacement on cultural resource management in far-away places. This research seeks to break that trend, encourage a more open dialogue, and catalyze attitudinal reform in the Pikes Peak Region.

Introduction

Pike's Peak, 'America's Mountain,' has the second most traffic of any mountain in the world (World Wildlife Foundation 2018). It is an icon of the American West, with significance locally, regionally, and internationally for tourism, and outdoor recreation. Chief among concerns for the popularization of the mountain landscapes and neighboring forests are overuse – 'loving it to the death' – and the consequent environmental fallout that occurs with user traffic. This worry is magnified by new efforts (such as 'Ring the Peak' and a new Summit House) to increase what is already an extensive recreational complex and consumer base. One area of concern, however, that seldom receives requisite attention is the condition and management of Indigenous cultural sites. Save an occasional passing mention, it is often forgotten that this region once was – and in many respects still is – occupied by ancestral peoples. It is curious, then, why the oldest continuous residents of Colorado receive the least attention in public lands management decision calculi and this report, at least in small part, seeks to rectify that trend.

The intersection between Indigenous peoples and

public lands begs many questions, most notably engaging with ideas of sovereignty, migration, cultural displacement, diverging epistemologies on nature and resources, and intergovernmental jurisdiction disputes. This report by no means claims a totality of information – its purpose is largely to raise awareness of conversations that need to take place. The impacts of public lands management on Indigenous peoples in the Pikes Peak Region have for too long been overlooked. The regional community, currently, is at a unique position in which it is capable of instigating institutional changes to long-standing land management programs and procedures.

While there are a host of critical implications regarding public lands management (use of fire, patchwork ownership, for-profit uses of tribal lands, accessibility by private users, extractive resources, and so forth) the 'lowest hanging fruit' is the status of Indigenous cultural sites on city, state, and federal land. It is a more accessible starting point given the dislocation of Indigenous communities from the Pikes Peak Region – cultural resource management is a field in which policy issues are still relevant even if ancestral communities live hundreds of miles away (Cassandra Atencio, personal communication 2017).

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Figure 1: Ute Teepee



A reminder of the Indigenous presence that still occupies the heart and ethereal body of the Peaks Peak Region. Source: Library of Congress.

The process of identifying, managing, and mitigating damage to cultural sites involves an intense policy network (NHPA¹, NEPA², NAGPRA³, and other policy frameworks), with diffuse and often competing stakeholders. This research is intended to unravel that network and uncover procedural areas of concern, most notably regarding the tribal consultation process. Alternatives will be proposed that can help lead to more comprehensive and robust interactions between Tribal and U.S. local, state, and federal governments, with special attention paid towards the unique policy theatre of the Pikes Peak Region.

Methodology

Literature review ranges from books, peer-reviewed journal articles, and formal United States Forest Service and National Park Service (NPS) reports (ethnographic studies and Environmental Impact Statements) to newspaper and magazine periodicals. Fieldwork includes attending talks, performing panel and one-on-one interviews (Weiss 1994, 9), and conducting direct observation of the Southern

Ute Sun Dance (July 7th-10th, 2017) as well as a tribal consultation taking place at Lake Nighthorse (August 3rd, 2017). Methods of conducting observation often include immersion into the local culture and tradition to minimize outside interference (DeWalt 2002, 4). Research is mostly qualitative and, given the sensitivity of certain topic areas, limited quantitative, graphical, or geographic data will be provided.⁴

Notes were taken at meetings and interviews, except where requested otherwise, and direct observation field notes were recorded after the fact to avoid alienating subject communities (DeWalt 2002, 19). Analysis will reference these interviews, although direct quotes will not be given absent direct approval from interview subjects.

A common methodological blunder in conducting ethnographic research (especially of Indigenous peoples) is the lack of awareness of the inherent bias in the discipline. “Knowledge is not something that we can passively or actively acquire because we are always involved in its production and interpretation. Similarly, knowledge production is never a ‘value-free’ or unbiased process” (Cope 2002, referenced by Cordova 2016, 4). The notion of decentering the research narrative is advanced further by Shaw (2006, p.273), who writes: “Engaging with indigenous geographies thus allows us to remove the epistemological blinders which perpetuate residual, static and uniform forms of ‘truth’ to reveal instead a cornucopia of worldviews that open up new vistas to understanding the world and humanity’s place within it” (Referenced by Cordova 2016, 6). These types of ethnographic considerations are embodied, not only by the practice of conducting research, but is similarly integral to the mission of the *State of the Rockies Project*.

¹ National Historic Preservation Act (1966)

² National Environmental Protection Act (1970)

³ Native American Grave Protection and Repatriation Act (1990)

⁴ “Shaw et al. (2006) note that mapping and documentation of sacred sites and other culturally relevant resources have the potential to make indigenous groups vulnerable to outside exploitation, while cartography conducted on indigenous lands has the potential to portray lands as “empty” and therefore unutilized in the eyes of the colonizer” (Cordova, 8).

A main drawback to research is the inability to engage more fully with a wider breadth of Indigenous people who have occupied the region (numbering close to 40 distinct tribes). Given time and research limitations, attention has mostly been directed towards the three Ute Tribes, with particular attention paid to the Southern Utes due to an invitation to their Sun Dance.

Policy Summary

The history of interactions between the U.S. government and Indigenous peoples begins, first and foremost, with blatant disregard for the wellbeing of Indigenous people. In the early twentieth century, policy measures such as the introduction of Indian boarding schools and Indian urban-resettlement were clearly intended to whitewash Indigenous communities and break the bonds of cultural heritage (Angie Krall, personal communication 2017; Site visit to Southern Ute Museum, 2017). Critics of Indian policy at the time rightly lambasted the centuries of genocide and the absence of economic opportunity on reservations, yet neglected to fully recognize the dimensions of cultural loss and appropriation.

Human remains were excavated on ancestral lands and put up on display in museums and catalogued in university annexes (Johnson; Krall, personal communication 2017). The feeling is epitomized by the statement of one tribal member – “How would you feel if your grandma was dug up? You would scream” (Lake Nighthorse Consultation, personal communication 2017). It is an indiscretion that runs deeper than simple theft – it is the physical removal and erasure of a culture that scholars claim they are attempting to protect. Therein lies the central incongruence between old-school archeology as the study of a mostly dead past and the Indigenous peoples occupying the living present with a full suite of vibrant cultural traditions.

National Historic Preservation Act

Consultation – described by Susan Johnson as the “gift and mandate that pulls everything together” – began to resemble what we see today with the passage of the

National Historic Preservation Act (NHPA) in 1966 (NEPA & NHPA 2013, 8). A wide-sweeping piece of legislation, the document placed protections on culturally and historically significant sites with registries at both the state and federal level. Accordingly, several new offices were put into effect to enforce the legislation – two of particular interest being the State Historical Preservation Officer (SHPO) and the Tribal Historic Preservation Officer (THPO).⁵ The SHPO is required to perform checks on any site considered for state or national landmark registry and keeps a record of documents, testimonials, and field reports for current and forthcoming sites.

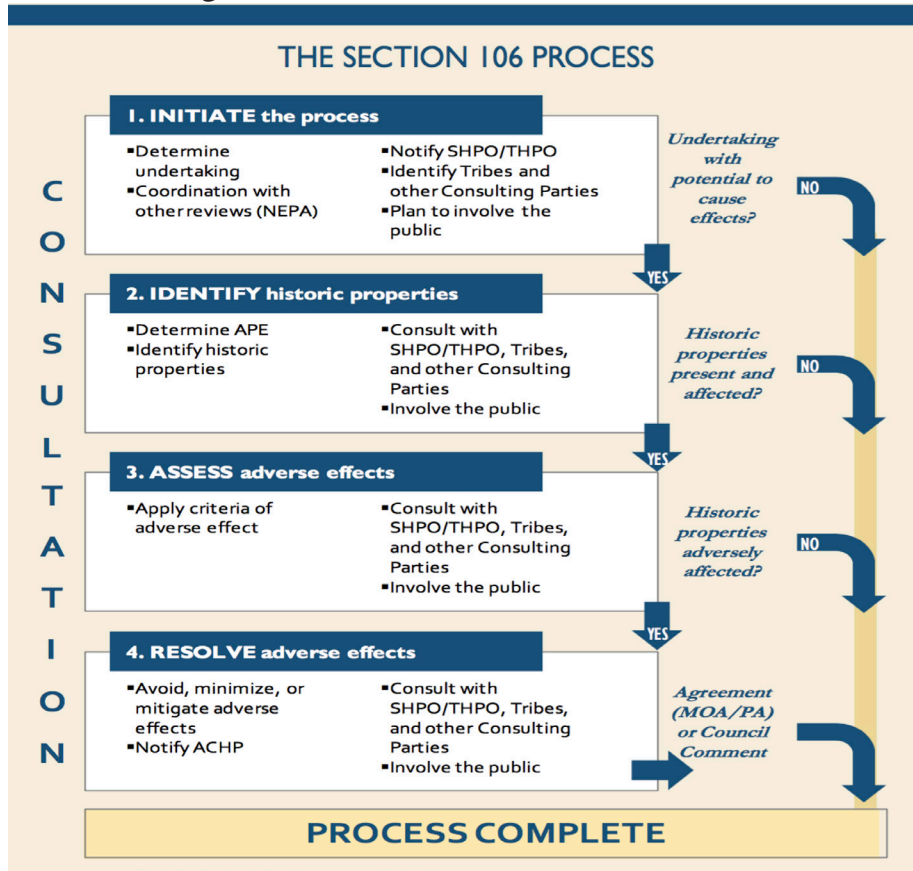
A single part of what is an already extensive set of duties, Section 106 of the NHPA put into effect measures regarding the management of recognized Indigenous archeological or cultural sites on public and private lands. Principal to the proceedings is establishing if, indeed, the proposed project has an “adverse effect” on cultural resources in “a manner that would diminish the property’s integrity” (NEPA and NHPA, 7). The process of determining what constitutes an “adverse effect” depends significantly on culturally-relevant factors and the perspectives of agencies performing the evaluation. As such, to help assert the primacy of Indigenous worldviews, each tribe is entitled to designate a THPO. That said, many tribes opt out.

In Colorado, Terry Knight, Sr. (Ute Mountain Ute member) is the only official THPO and Dr. Holly Norton is the Deputy SHPO and State Archeologist. While these offices are generally on good terms, there exists an inherent level of inequality between the SHPO and THPO, especially when it comes to the availability of resources. According to Dr. Norton, recent records show that SHPO offices nationwide (of which there are 55) receive \$49 million in funding annually, whereas THPO’s (of which there are 171 nationally) receive a paltry \$9 million by comparison – a 17:1 ratio. Figures such as these demonstrate just some of the institutional barriers posed towards Indigenous communities’ participation in inter-governmental decision-making. Still, the formal role of *initiating* consultation – given it is a government-to-

⁵ “Appointed by the governor, the State Historic Preservation Officer (SHPO) coordinates the state’s historic preservation program and consults with agencies during Section 106 review... [created by the 1992 amendments to the NHPA]. Some tribes officially designate Tribal Historic Preservation Officers (THPOs), while others designate representatives to consult with agencies as needed” (Citizen’s Guide to Section 106, 5).

government interaction – must begin high in the chain-of-command (Michael Troyer, personal communication 2017). This task is typically delegated to a Forest Supervisor (USFS), Field Office Manager (BLM), or Park Superintendent (NPS), who submits a certified-letter to a Tribal Chair, President, and/or Governor.

Figure 2: NHPA Section 106 Process



Section 106 is a highly formalized process – the above graphic streamlines the complexities of the policy. Source: Colorado Commission of Indian Affairs.

National Environmental Policy Act

In 1970, the NHPA was augmented and emboldened by the National Environmental Policy Act (NEPA).⁶ It mandates that, whenever any public or private entity

plans a project that, in some way, threatens to harm the environment, they are required to produce an Environmental Assessment (EA).⁷ Similar to the NHPA usage of “adverse effect,” NEPA seeks to determine the presence of a “significant impact.” If the impacts – analyzed on the basis of “context and intensity” (NEPA and

NHPA, 7) – are negligible or non-existent, the project goes through. In the event there is significant risk of environmental fallout, then a more extensive Environmental Impact Statement (EIS) is conducted and will be put to review by the Environmental Protection Agency (EPA).

The NEPA Lead Reviewer is tasked with proposing mitigation procedures based off recommendations from various specialists. (EPA Region 8 site visit and personal communications 2017). That is, at least, how the legislation was designed to work.⁸ Environmental Impact Assessments and Statements are required by Section 106 of the NHPA to take into account harm rendered to cultural property or heritage sites. NEPA mandates that these reports include some mitigation measure. The question of ‘mitigation’ is really where consultation enters its most critical stage,⁹ an “open-ended” process that, if done correctly, seeks to escape the age-old auspice of “data recovery” (Troyer, personal communication 2017).

NEPA is very specific in its stance that, before an EA or EIS is actually written, the management entities necessarily

⁶ “The passage of the National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190; 83 Stat. 852; 42 U.S.C. 4321) in December 1969 and its subsequent signing into law on January 1, 1970, expanded environmental reviews and formally established environmental protection as a Federal policy. NEPA and NHPA require Federal officials to “stop, look, and listen” before making decisions that impact historic properties and the human environment” (NEPA and NHPA, 4).

⁷ “ENVIRONMENTAL ASSESSMENT (EA) When a CE is not appropriate and the agency has not determined or is uncertain whether the proposed action will cause significant environmental effects, then an EA is prepared. If, as a result of the EA, a finding of no significant impact (FONSI) is made, then the NEPA review process is completed with the FONSI; otherwise an EIS is prepared. ENVIRONMENTAL IMPACT STATEMENT (EIS) NEPA and CEQ’s regulations require the preparation of an EIS when a proposed Federal action may significantly affect the human environment” (NEPA and NHPA, 9).

⁸ “When the NEPA review and Section 106 are integrated, whether through coordination or substitution, an agency assesses ways to avoid, minimize, or mitigate adverse effects while identifying alternatives and preparing NEPA documentation. It is important for agencies to consider ways to avoid affecting historic properties before assessing potential mitigation measures to resolve adverse effects” (NEPA and NHPA, 7).

⁹ “WHAT IS MITIGATION? In the Section 106 process, the term “mitigate” is distinct from the terms “avoid” and “minimize,” and means to compensate for the adverse effects to historic properties. In the NEPA environmental review process, the term “mitigate” includes avoiding, minimizing, reducing, as well as compensating for the impact to the human environment” (NEPA and NHPA, 24).

must reach out and consult with all legitimate stakeholders. In the case of Indigenous affairs - for which there is an additional level of government-to-government legal requirements - this would include any and all tribes who consider the region their ancestral home. For context, nearly forty-tribes make that claim in the Pikes Peak Region alone (Anna Cordova, personal communication 2017). Consultation is meant to be 'meaningful,'¹⁰ though all too often a non-response to a nebulous email request from the government will be taken as a lack of interest, and the party is subsequently disregarded in the management dialogue (Amanda Sanchez, personal communication 2017).¹¹

For those parties that do respond in timely fashion, their input is considered when forming a mitigation proposal. At a later stage, the same parties are to be consulted again regarding the full text of the EIS and to ensure the mitigation is up to standard and suitably comprehensive. At both the pre- and post-planning stage, the SHPO and THPO are meant to advise as well and, at either juncture, their disapproval would mark a reformulation of the proposal (Dr. Holly Norton, personal communication 2017). This latter measure provides a state-level check to guarantee there has been no gross abuse in the proceedings.

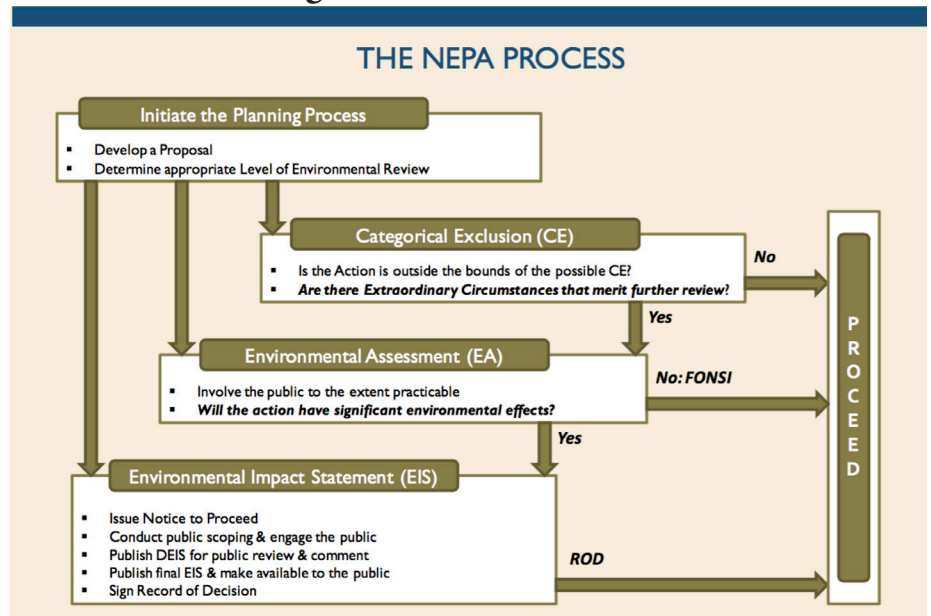
Unravelling Jargon

Terms – especially when swimming through the jargon of policy – take on special significance. Phrases like “adverse effect,” “significant impact,” and “mitigation” are critical for the very reason they are incredibly vague. They are prone to various interpretations that even more deeply obscure the management process. Additionally, they became the vehicle through which conflicts are fought between opposing worldviews, consultation emerging as the mediating middle-ground.

¹⁰ Meaningful consultation is a two-way road: it is more than a letter notifying a Tribe about an undertaking, a “legal notice” in a local newspaper, or any other form of unilateral communication. Meaningful consultation requires in-depth and candid dialogue with and by all the consulting parties” (Hanschu, 8).

¹¹ “A note on timeframe for communication: communication early and often with Tribes is critical to a successful consultation. The time frame for developing relationships, conducting consultations, and negotiating protocols with Tribes are frequently time consuming, particularly when relations have not been established or maintained. Plan to spend substantial amounts of time and personal involvement to develop relationships that will lead to productive consultations. “Sometimes, before a Tribe can take an action, approval must be obtained from the Tribal Council/ Government. When planning meetings with a tribal government, or placing matters before them for their consideration, attention needs to be given to the Tribal Council’s schedule” (Hanschu, 23).

Figure 3: NEPA Process



A visual representation that situates the relationship between Categorical Exclusions (CE's), Environmental Assessments (EA's), and Environmental Impact Statements (EIS's). Source: Colorado Commission of Indian Affairs.

Adding to the alphabet soup are Programmatic Agreements (PA's), Categorical Exclusions (CE's), and Memorandums of Understanding (MOU's). PA's inhabit the NHPA world as pre-established, binding agreements between agencies and tribal partners (built during consultation) that set precedents for actions agencies can take absent itemized consultation according to Section 106 criteria (NEPA and NHPA, 18). CE's “describe a category of actions that are expected not to have individually or cumulatively significant environmental impacts” and create a short-cut for actions agencies can conduct without an EA or EIS (NEPA and NHPA, 9). Only once “the Section 106 process concludes there are no historic properties present... may [the agency] proceed with the CE” (NEPA and NHPA, 19).

MOU's, by comparison, are non-binding compacts between inter-agency partners that set “norms of practice” – terms and conditions agreed-upon by consenting parties that are expected to be upheld within their jurisdiction (Norton, personal communication

2017). Studies analyzing the Northwest Forest Plan demonstrate how MOU's "contribute to strengthening government-to-government relationships by defining federal trust responsibilities and establishing frameworks for how consultation... should occur... [and] can be key components in effectuating strategies for communication, coordination, information sharing, and collaboration intended to meet the goals of protecting... cultural resources" (Chief 2014, 168).

The Imperfect World of Policy:

More often than not, however, consultation is much more complex and problematic than policy may suggest. To list a few central complaints from a range of stakeholders: timelines for performing consultation provide an easy-out for negligent agency officials to abuse the system, the bureaucracy of consultation just becomes 'checking another box' (Norton, personal communication 2017), some land managers neglect to perform consultation before writing the EA/EIS (Atencio, personal communication 2017), SHPO recommendations are seldom fully considered (Norton, personal communication 2017), the EPA's ability to substantively challenge an EIS mitigation proposal is minimal at best, and the very premise of 'mitigation' speaks to an essentially western, colonial worldview.

To complete the Section 106 requirement, there are a series of deadlines under which agency officials are required to contact tribes (after which, there is a 120-day consultation period), while others mandate the inclusion of "culturally significant" sites in the national registrar within an additional 60-days following consultation. Altogether, Section 106 proceedings should be completed in just under six-months (Johnson; USFS Region 2 site visit and personal communication 2017). That said, even with 180-days, agencies tend to run behind and, according to the colloquialism, "everything should have been done yesterday".

Most disconcerting, however, is the "30-day nonresponse" loophole (Ernest House, Jr.; Norton, personal communication 2017). If a tribe fails to respond to a "request for consultation" e-mail within thirty days of it being sent, federal agencies have the authority to assume disinterest and discount said tribes from further

rounds of consultation. For agency partners trying to skirt around the nuisance of contacting tribes, they are given relative liberty to do so by adhering to worst-case practices for consultation – sending an ambiguous letter, without any follow-up, almost guarantees an over-worked tribal office will fail to respond in due time. The policy precedent is such that tribes have the chief legal burden of claiming their right to consultation, with little-to-no large scale recourse against institutional bias that prohibits participation.

On top of that, the frequent turnover of agency positions poses a critical impediment to forming intergovernmental relationships and building trust. "The Forest Service keeps turning over in staff," reflects a tribal member. "It seems like just as soon as somebody gets to know us, they're gone, and that really harms the relationship. When we help teach people about us and they leave, the band loses" (Bussey 2016, 104). Part of the issue is the prospect of career advancement, where high-performing USFS officials are given incentive to move-up the agency ladder which, consequently, interrupts relationship continuity (Mason 2012, 190). That said, the problem can be seen as two-fold, especially given the frequency with which elected tribal officials and cultural representatives are liable to change (Hanschu 2014, 21). "Because of frequent elections at the tribal level, it is important to include specific tribal department heads and staff [in consultations]... as department personnel tend to be more consistent over time."

While the administration of environmental policy inevitably becomes a bureaucratic task at some level, corresponding tribal members are not of the same ilk. Indeed, for many – even tribal administrators – email is not a sufficient form of communication (House, Jr., personal communication 2017). For one, it is outside the context of their cultural heritage; when conducting work ostensibly focused on restorative justice, marginalized peoples should not be forced to communicate according to the language and temporality of the majority group. Such an imposition becomes another form of material oppression.

For tribal members – with depleted administrative funds and an office of one or two to complete the work

of a dozen – a *combination* of emails, physical letters, and phone calls are needed to communicate effectively (Krall, personal communication 2017). This is doubly the case when put into perspective of the sheer volume of correspondence these officials receive.¹² Without some level of redundancy, it is impossible to prioritize one missed invitation over another. Consultation is not ‘checking a box,’ but sometimes that becomes the ceiling of U.S. officials’ administrative effort. Even worse are episodes in which agency officials fail to document consultation proceedings, a practice derided by more forthright public servants (Nat Miullo, personal communication 2017) and deemed “heartbreaking” by members of the Cultural Resource Management community (Jessica Yaquinto, personal communication 2017).

In a similar cost- and time-saving measure, *sometimes* consultation only takes place after the EA/EIS has been compiled. If the tribal representatives were to have serious complaints, the management body is much more reticent to change an already existing (and paid for) proposal (Krall, personal communication 2017). In cases like these, it is clear the extent to which certain agency representatives (from all levels of government) hold consultation only as a formality. Consultation is conducted, here, only after its utility is mostly lost. Not only is this practice inadvisable, but so too does it go against the legal mandate set by both the NHPA and NEPA (with deference to documents provided by the American Cultural Historic Preservation Society¹³ and the Council on Environmental Quality¹⁴). The same can be said for withholding any form of meaningful engagement with the SHPO, an office for which there is no clear enforcement apparatus. Dr. Norton, herself, cites the degree to which her office’s role is diminished, holding more “verbal” than “legal” authority; citing Stephen Hart, “they [agencies]

don’t take advice, but they still have to ask for it” (Norton, personal communication 2017).

The damage from practices such as these is more widespread than the fallout from a single event. The success of consultation is built upon years-long relationships and trust between tribes and U.S. governmental officials (Troyer, personal communication 2017). Overlooking consultation at critical junctures chips away at that relationship and builds a dynamic in which some tribes stop participating after seeing how their voice has been disvalued (Sun Dance Interviews, personal communication 2017). Reducing Section 106 to its most bare components – the “determination of effects and determinations of eligibility” – puts a stake in the heart of efficacious consultation (Norton, personal communication 2017). Later sections will explore the dimensions of successful Tribal-U.S. working relations.

When all fails in the world of environmental management, the EPA is imagined as the ultimate safeguard – an agency with federal jurisdiction, relatively deep pockets, and the final say on issues of critical import. If that ever was the case, it certainly is not so today. As the Department of the Interior is facing severe cutbacks and related agencies are facing increased challenges, the EPA has been at the forefront of the chopping block (Jon Dow, personal communication 2017). Meeting with members of the Region 8 office in Denver, their hand is often held back, as they lack the funding, support, and enforcement mechanism to seriously dispute any NEPA report which lands on their desk (EPA site visit and personal communication, 2017).

Even the language of their consultation guidelines¹⁵ leaves the door wide-open for varying levels of follow-through; “To the fullest extent possible, EPA plans to use existing EPA business operations to put this Policy into

¹² “The council receives mountains of documents and information on a weekly basis, so consider including a one-page summary of the information at the front of the packet” (Hanschu, 36).

¹³ “A federal agency must conclude Section 106 review before making a decision to approve a project, or fund or issue a permit that may affect a historic property. Agencies should not make obligations or take other actions that would preclude consideration of the full range of alternatives to avoid or minimize harm to historic properties before Section 106 review is complete” (Citizen’s Guide to Section 106, 20).

¹⁴ “By statute, the Section 106 requirements must be met prior to an agency approving the expenditure of funds on an undertaking (other than funds for non-destructive planning) or prior to issuance of a license, permit, or approval needed by the undertaking. Further, an agency must complete the NEPA and Section 106 reviews before signing a decision document” (NEPA and NHPA, 35).

¹⁵ “The Policy complies with the Presidential Memorandum (Memorandum) issued November 5, 2009, directing agencies to develop a plan to implement fully Executive Order 13175 (Executive Order). The Executive Order specifies that each Agency must have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications” (EPA Policy on Consultation, 2).

effect” (EPA Policy on Consultation 2011, 4). Absent an absolutely irreconcilable complaint, their feedback mostly registers in the range of ‘suggestions,’ utilizing language that indicates passivity – “We recommend you consider...” (EPA Site Visit and personal communication 2017). EPA officials have to walk lightly and with tact to make a meaningful mark on a proposal. The checks intended as part of NEPA and Section 106 of the NHPA are not functioning as intended and, as a result, the system suffers.

Still, even when the system is working, there are essential flaws with the rhetoric. The term ‘mitigation’ bears with it the implication that some, ideally minimal, harm will be rendered. From a western perspective based on a net-benefit calculus, the harms are outweighed by the process of development; i.e. trail development is ultimately good, even if it disrupts some forest corridors. That same trade-off does not work from an Indigenous perspective. Justifying a management procedure by claiming it is the “lesser evil” of all the different iterations of the proposal does not take away the fact it will inevitably damage, at least in some way, cultural resources. Advocating “mitigation” becomes an admission of intentions to prioritize development over respecting Indigenous sovereignty and accessibility to ancestral lands.

Often, when a THPO or tribal representative enters the bargaining table, it is with the understanding they have already lost. While covering a consultation in Durango, Betsy Chapoose – cultural liaison for the Ute & Ouray Indian Tribe of Northern Utah – discussed how “consultation is mostly there to make white people feel better” (Chapoose, personal communication 2017). A valuable exercise, the initial feeling of legitimacy inspired by seemingly ‘progressive’ government action belies the basic injustice that fills the background of many government-to-government interactions between the United States and tribes. The U.S. is willing to concede some level of mitigation; pushing the boundaries back, moving the proposed site, placing a few cautionary signs, etc. Very seldom is the outright cancellation of the project considered, regardless of how egregious its implications are to the Indigenous community (Ibid.). The system set

Figure 4: Dominguez-Escalante National Monument Dedication



The Dominguez-Escalante area in Western Colorado is the ancestral home of the Ute Indian Tribe. Pictured left to right are Ute tribal elder Clifford Duncan, Secretary Salazar and Ute Tribe member Betsy Chapoose. The designation of the monument was only achieved after an extensive process of tribal consultation. Source: Department of Interior.

by the NHPA and NEPA, even at its best, puts Indigenous people at a structural disadvantage, an issue for which practitioners need have a heightened awareness.

As much as the relative looseness of Section 106 creates a window for negligence, its inherent flexibility is still an asset in many respects. Tribes are so far-encompassing and issues of cultural property loss so varied that it is necessary for policy to adapt to the situation at hand – a more strictly regulated NHPA is not the best answer in and of itself (Troyer, personal communication 2017). That said, there are also pieces of US-Tribal legislation that adhere to a far stricter timetable and set of requirements. Of these, the most prominent is the Native American Grave Protection and Repatriation Act (NAGPRA).¹⁶

Passed in 1990, the act sets high standards for the re-interment of disturbed Indigenous remains. This includes objects in museum, university, and federal collections, as well as more recently identified sites discovered through various development projects, erosion, or illegal excavation. The legislation mandates that these remains

¹⁶ “Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). NAGPRA provides a process for museums and Federal agencies to return certain Native American cultural items -- human remains, funerary objects, sacred objects, or objects of cultural patrimony -- to lineal descendants, and culturally affiliated Indian tribes” (Hanschu, 10).

be repatriated promptly and with diligence to the tribes to whom they belong. In most cases, the specific tribe is unclear and, in accordance with NAGPRA, all tribes with some historic claim to the region *must* be consulted. Unlike Section 106 proceedings, non-response is taken seriously – contact with tribes is required by a certain date and U.S. compliance is tightly enforced.

The exhaustive nature of the legislation speaks to the essential nature of remains and burial sites in Indigenous societies, as well as the extent to which those sites have been systematically desecrated. Indigenous peoples adhere to a non-linear perspective on the passage of life and heritage. Ancestors who have passed away live on in the present through the interrelatedness of land, the cycling of nature, and the continuous habitation of ancestral territory (Sun Dance, personal communication 2017). “The spirits are still there...,” recounts a tribal member, “It is very sensitive” (Lake Nighthorse, personal communication 2017). Uprooting burial sites severs those ties, not only between native peoples and those who came before, but to the land itself. Anna Cordova, in her Master’s Thesis, speaks to the connection between the rootedness of ancestors in traditional territories and contemporary Indigenous communities:

“Native scholar Vine Deloria (1973, p. 275) noted that there are ‘places... of unquestionable, inherent sacredness on this earth, sites that are holy in and of themselves’... Kelley and Francis (1994, p.1) note that they [these landscapes] are ‘a material anchor for those stories and thereby store them as a physical link between people of the present and their past’” (Cordova, 9).

The robbery of ancestral remains is a destruction of memory, as well as living heritage, and resembles a form of cultural genocide.

NAGPRA provides tribes the legal backing with which to maintain and fight to restore those ties to ancestral lands. Indeed, the legislation has heralded great success. When NAGPRA is triggered, both U.S. and tribal entities take those proceedings very seriously and

Figure 5: Lake Nighthorse Reservoir



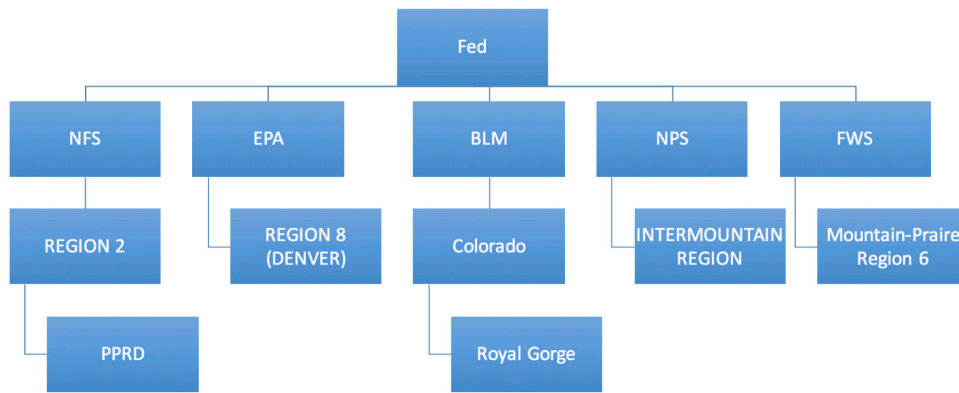
Lake Nighthorse from afar – it’s scenic beauty belies its artificial origin and the controversy surrounding the flooding of the valley, which is home to ancestral remains and artifacts. Securing water availability for nearby communities, the reservoir is increasingly being utilized by the city of Durango (recreation), with ancestral interests taking a noticeable backseat. Source: Melissa Youssef.

with deference to tribal interests. To a degree, the heavy-handedness of NAGPRA has brought attention to other areas of Indigenous cultural property loss and given tribes the leverage to be more demanding and forthright with their concerns in all phases of consultation. The successful re-interment of remains has also created the opportunity to expand the relationship of trust between agency and tribal partners (House, Jr.; Krall; Jim Pitts, personal communication 2017).

According to Krall, NAGPRA proceedings done right build “cache” within the tribal and federal communities. Rio Grande National Forest and the San Luis Valley – which has seen eleven reburials since 2008 – is taken as a regional model for tribal collaboration. The relationship has developed sufficiently to where, now, people “can talk about anything in meetings,” e-mail has become an informal, yet productive means of communication, and issues totally unrelated to the topic remains often get brought up and, subsequently, resolved in NAGPRA round-table discussions (Krall, personal communication 2017).

For instance, an Indigenous partner may mention “We need crane feathers.” Krall, through her role as the Heritage Program Manager for Rio Grande National Forest, can cross-reference the claim, open streamlined

Figure 6: Federal Agency Hierarchy



So much of cultural resource management is bound in an intense set of overlapping jurisdictions, ranging from local, state, and federal levels of government. This visual aid provides a basis to better understand the chain-of-command. In short, the NPS, USFS, BLM, FWS all have the same level of authority, just within their separate jurisdictions. To varying degrees and depending on the larger political context, agencies are at times able to exert leverage on each other. Divisions of power within agencies are much more extensive. Source: Nathan Goodman.

communication with other federal agencies, and permit the retrieval of crane feathers in timely fashion. House, Jr., in our meeting, illuminated that there are still upwards of 800 known remains that have yet to be reinterred in Colorado. While it is arduous and time-intensive work, NAGPRA both rectifies centuries of colonial injustice and provides a window to expand the scope and depth of Interagency-Tribal relations (House, Jr., personal communication 2017).

It is important to note, again, and reemphasize the multi-lateral nature of cultural resource management. Federal legislation (NHPA, NEPA, NAGPRA, and – more tangentially – the American Indian Religious Freedom Act¹⁷) instates state and regional level offices (THPO, SHPO, Region 2 of the USFS or Region 8 of the EPA) of various jurisdictions (USFS, NPS, BLM, USFWS, state and local governments) to correspond and consult with members of sovereign nations. Ernest House, Jr., the Director of the Colorado Commission of Indian Affairs (CCIA)¹⁸ and Susan Johnson, Regional Tribal Relations Program Manager for USFS Rocky Mountain Region, speak highly of the work completed at various levels of government.

Additionally, different levels of government adhere

to distinctly different guidelines regarding consultation. Notably, state-level consultation with tribes is significantly less regulated, where “Unlike the federal government, individual States and their agencies are not required by federal law to consult with Tribes” (Hansch, 8). That said, regarding areas of policy overlap, “State-Tribal Consultation is not only good practice, but also consultation leads to increased mutual respect, and more effective program planning and implementation”. The CCIA, by virtue of its jurisdiction, is only required to consult with the

Southern Ute and Ute Mountain Ute Tribes. Ernest House, Jr., however, loudly asserts his office’s commitment to consult with the full-suite of forty-eight tribes that have historic claim to ancestral lands in the state. Additionally, Colorado is unique in setting a precedent for state agencies to form government-government relations with tribes through “Tribal Consultation Agreements” (TCA’s). More specifically, the “Colorado Department of Health Care Policy and Financing (HCPF)” and “Colorado Department of Public Health and Environment (CDPHE)”, signed agreements in 2011 to collaborate on state-level “health care related issues” (Ibid.).

Whether it be Colorado setting a procedural precedent for inter-tribal NAGPRA re-interment ceremonies (House, Jr., personal communication 2017) or tribally led organizations successfully lobbying to place provisions for increased responsiveness to tribes in the 2008 Farm Bill (Johnson, personal communication 2017), proactive efforts from a wide range of actors yield hope that consultation practices have the potential to improve. Best methods, such as the work outlined in the San Luis Valley Intertribal and Interagency NAGPRA Working Group MOU will be discussed in a later section.

¹⁷ “In 1978, Congress enacted the AIRFA, recognizing American Indian religious freedom and requiring “federal agencies to learn about, and avoid unnecessary interference with, traditional Indian religious practices.” However, Rep. Morris K. Udall (D-Ariz.), who cosponsored the bill, stated that AIRFA did not create any legal rights. AIRFA instead “depends on Federal administrative good will for its implementation.” (Hooker, 137).

¹⁸ “In 1976, the Colorado General Assembly created the Colorado Commission of Indian Affairs (CCIA) within the Office of the Lieutenant Governor. The Lieutenant Governor serves in the statutory role as chair of the CCIA. The CCIA was designed to be the official liaison between the two Ute Indian Tribes located in Colorado (the Ute Mountain Ute and Southern Ute Indian Tribes) and the State of Colorado” (Hansch, 4).

Focusing on Pikes Peak

Most of what has been discussed so far focuses on U.S. federal and state level attention to issues of cultural resource management – none of it has had anything particular to do with the Pikes Peak Region. This begs the question, what are the cultural and historical features that make Pikes Peak unique? For one, until recently it has been a region bustling with migratory activity. More than thirty tribes – including various Ute bands, Kiowa, Cheyenne, Apache, Arapahoe, Lakota, and so many more – conceive of this region as part of their ancestral home (Cordova, personal communication 2017).

Indeed, “Colorado’s first human residents arrived more than 12,000 years ago” (Veblen 2004, 35-6). Specifically speaking, “the Mouache band of the Ute Indians defended the South Park area as their territory for hunting... as early as 500 to 1000 years ago. At the time of Euro-American settlement in the area of the present-day Front Range, the Utes occupied most of western and northern Colorado” (Ibid.). Their Wickiup structures – “housing... consist[ing] of a cone of branches supporting each other or supported by a living tree” – have been dated as recently as the early 20th century in parts of Colorado, well after the Utes forced removal from the region (Curtis Martin, personal communication 2017).

From “plains to peak,” the features of Pikes Peak (ancestrally known as *tava*, translated as “Sun Mountain”) were a boon to seasonal migration, with people travelling up the slopes for the summer months and returning to the grasslands of eastern Colorado in winter. Sightings of Indigenous people in the region have occurred since original surveys performed by western pioneers in the 19th century. That said, General William Jackson Palmer – Colorado Springs’ oft celebrated founder – noted, with a patronizing air, that by the mid-1890’s Indigenous people began to disappear and he missed the sight of his “wild neighbors” (Palmer 1896, 13). Indeed, that absence has been felt ever since – the only official reservations in Colorado are for the *Southern Ute* and *Ute Mountain Ute* tribes, which are six- and seven- hours away from Colorado Springs by car, respectively.

From a policy perspective, the final straw for free-roaming Indigenous peoples of Colorado came

with the ‘Ute Removal Act’ of 1880 (Cordova, personal communication 2017). It was primarily a response to the “Meeker Massacre,” an event in which, Nathaniel Meeker – a Bureau of Indian Affairs representative and founder of Greeley – was kidnapped and killed by a local Ute band. Very soon after, the U.S. government sought to push all Ute peoples out of the state as a form of retribution. Chief Ouray of the Uncomphagre Utes – who himself was not affiliated with any of the involved parties – negotiated to instead create a reservation in the southern part of the state (later split into two reservations following political conflict) and a second in northeastern Utah, where the bands residing around Grand Junction (including those most proximal to the massacre site) were relocated and formed into the entity now known as the *Ouray & Ute Indian Tribe*. The systematic removal of Indigenous people from the state, let alone the Pikes Peak Region, has enabled Colorado Springs residents to adopt an attitude of apathy towards local Indigenous affairs.

For these reasons, despite resounding historic ties to Pikes Peak, federally recognized tribal governments have an extraordinarily tenuous grasp over important cultural sites in the area. A critical impasse is created where a lack of time, resources, and energy often prohibits access to cultural resources or the ability to sufficiently participate in politics surrounding ancestral lands (Cordova, personal communication 2017). The situation is even more dire for tribes living across state lines, many of whom exist in increasingly difficult economic circumstances. It is critical to note, however, that while there are no reservations near Colorado Springs proper, there is a large urbanized Indigenous community in the greater Colorado Front Range, with representation from tribes all over the nation (Ibid.).

Periodic requests are made to forage for traditional plants in Pike National Forest and city parks (Ibid.). Otherwise, Indigenous advocacy groups are more inclined towards providing social services, such as campaigns within local schools or the activities of the Denver Indian Center (Rick Waters, personal communication 2017), which focuses on issues ranging from alcohol & drug abuse, to “Honoring Fatherhood” and youth support. A regional organization based in Colorado Springs “One Nation Walking Together” provides aid to support the

economic and infrastructural development on reservations in the Western U.S. (Jessica Wohlrob, personal communication 2017).

Seeing how any study of Indigenous habitation in Colorado Springs takes on a regional dimension, questions of cultural resource management must be approached from a similarly broad perspective. Honing down our focus, particular attention will be paid to a case study concerning the expanding recreational complex of “Lake Nighthorse” near Durango, CO and a corresponding Bureau of Reclamation (BoR) consultation taking place August 3rd-4th, 2017. Next, the cultural resources of Colorado Springs and Pikes Peak will be more closely examined, looking at comments from the city archeologist, forest service representatives, and *Southern Ute* and *Ute Mountain Ute* members. Third, and finally, local controversies around *Ute Prayer Trees* will be explored along with a discussion on the construction of knowledge and keeping Indigenous sovereignty in perspective.

Lake Nighthorse and Pikes Peak most resemble each other as rapidly expanding and highly trafficked recreation areas with a long-history of Indigenous habitation. A key difference, however, is that Lake Nighthorse is an invented feature. Originally authorized as part of the Animas-La Plata Project (1968) to provide Indigenous groups in the region their federally-reserved water rights (Rogers 2009), the controversial reservoir was completed in 2011 and was named after Ben Nighthorse Cambell, former U.S. Senator and member of the North Cheyenne Indian Tribe. Controversy arose mostly over the fact the project flooded a centuries- and millennia- old ancestral valley – home to any number of different tribes – and treasured artifacts and remains held sacred by descendants are lost now, and desecrated at the bottom of an artificial lake.

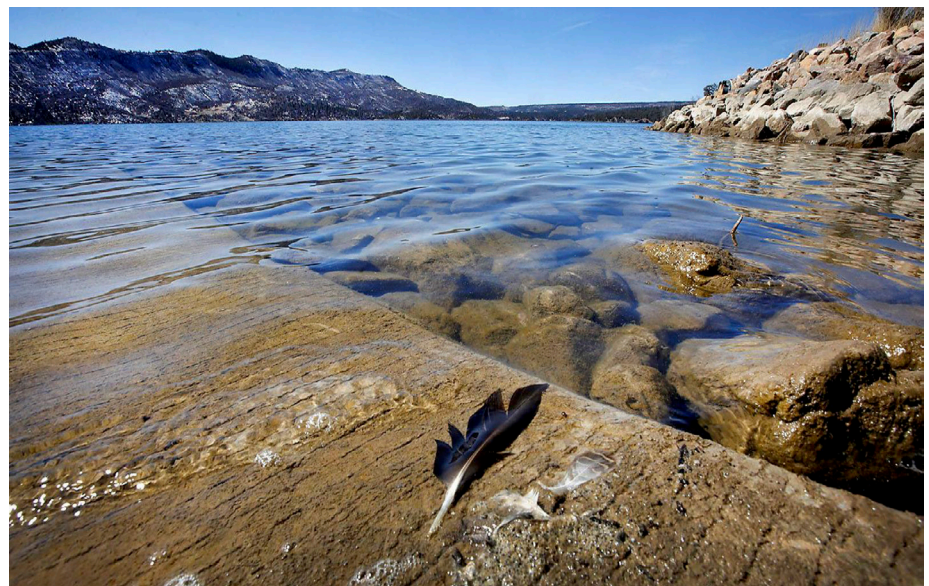
Also known as ‘Dead Water’ (Garrett Briggs, personal

Figure 7: Lake Nighthorse Opening for Recreation



Lake Nighthorse is planned to open its doors to local recreation in the near future. Preceding the launch of the forthcoming city park/recreation area and the construction of infrastructure to facilitate new traffic demands – this “overflow parking” development is the topic of 8/3/17 consultation. Source: Durango TV.

Figure 8: Lake Nighthorse Boat Ramp



The city of Durango opened Lake Nighthorse to recreation on April 1, 2018. To protect historic Native American artifacts, visitors are not allowed to go more than 25 feet up from the reservoir's high-water mark. Additionally, there is fencing around particularly sensitive areas. Still, no matter the mitigation taken place, it simply cannot compensate for the harm already rendered to the Indigenous cultural landscape. Source: Durango Herald.

communication 2017), travelling in or consuming water that contains remains is impermissible as it disrespects the resting ground of ancestors. That said, even given this existing injury, the topic of consultation was the city of Durango's plans to build overflow parking for the recently designated 'Lake Nighthorse Recreation Area.' Shifting hands from federal, to state, and finally local management, the area, in what was once the site of extensive Indigenous

settlement, is now a man-made reservoir soon accessible to recreational boaters, paddlers, and jet-ski enthusiasts (Lake Nighthorse, personal communication 2017). While any consultation involving Lake Nighthorse cannot be divorced from its albatross-like origins, meetings observed in August 3rd, 2017 in Durango (administered by the Bureau of Reclamation) were triggered by the high volume of archeological sites in close proximity to the proposed over-flow parking area (Ibid.). Consultation, in this case, gives tribal governments the opportunity to voice dissent or propose mitigation strategies for the parking lot and, as will be seen, provides an outlet for long-held grievances.

Taken in a vacuum, the meetings were comprehensive and set a high bar for consultation decorum. An inclusive panel of representatives from around Colorado, New Mexico, and Utah convened for two days as guests of the BoR and the city of Durango. Discussion was moderated by a mediator who pushed for the satisfaction of both the U.S. government and the Indigenous members' interests. All of the engineering plans were purely speculative (awaiting consultation feedback), all questions were answered before and during an extensive site visit, and the entire project was re-flagged to suit the specific needs of tribal representatives to visualize the various types of work areas and the impact they will have on the landscape.

From a more detached point-of-view, it would appear that this perceptively Indigenous-centered consultation would be a model for those discussed in this report. There is, indeed, a lot that has been done right. However, even consultation "done right" does not sufficiently meet the needs of Indigenous audiences, as it often ignores larger and more prevailing histories of injustice. Consultation cannot be seen from a strictly-linear, western perspective. The context of past lived-experience – cultural memory and trauma – is just as important as anything happening in the present. There is no perfect outcome and it is impossible to redact centuries of colonial violence, but recognition is at least better than erasure.

While the presentation is nice and the tone is generally kind, the consultation taking place at Lake Nighthorse is still, ultimately, a formality. It is a small piece of what is a significantly larger managerial proposition, and getting the tribes "on the side" of the

project is one of the last few administrative kinks to work out. The harm has already been done. The over-flow parking will be built, it is just a question of how and when. The project coming to fruition is inevitable, and the hum of jet-skis can already be heard in the distance.

Lake Nighthorse mirrors this pattern of irreverence. No matter what the tribal representatives say or how hard they push back, there is no way to effectively stop the encroachment of U.S. government and recreation interests onto their ancestral territory. Ricardo Ortiz, representative for Pueblo of San Felipe, very poignantly said, "we will talk about it tomorrow, and the answer will still be no" (Ibid.). Somewhat surprisingly, the atmosphere in the room remains amicable, as Ricardo transitions into a joke about scaring off looters – suggesting that the city build a statue of him with a bow and arrow in the center of the lot. This type of self-satire serves as both a relief, as well a window into underlying sources of tension.

There is an acceptance that consultation can do relatively little to match the full demands of tribes (most often, stopping the project completely), so they acquiesce and leverage their legal rights to achieve the maximal amount of mitigation (avoiding high-volume archeological sites, special signage, sensitivity instructions for workers, etc). Beyond this concession, the inevitability of acquiescence in tribal consultation is particularly heartbreaking. Still, many figures, especially senior tribal representatives, are especially vocal regarding the nature of consultation. Recall, here, Betsy Chapoose's comments (made in the wake of these discussions) that "consultation is about making non-Indians feel better." The U.S. government gives tribes a mostly ceremonial voice in management decisions, to assuage the guilt of the colonial class while still allowing them to pursue (relatively) unfettered capital projects—sometimes, consultation turns into just "checking a box."

Take the Dakota Access Pipeline (DAPL) – among the most visceral examples of federal impositions on Indigenous land in recent memory – heavy machinery continued to roll over ancestral graves despite fervent opposition and protest. Under no uncertain terms would any mitigation of the pipeline be considered permissible; its very existence, for environmental,

Figure 9: Thanksgiving Day Action at Standing Rock



Protesters march on Turtle Island, a site which holds significant burial grounds and has been annexed by DAPL construction. The action took place on Thanksgiving of 2016 (11/24/16). Militarized police are visible on the high ground and behind them (slightly obscured) are high-beams that shine on the camp 24/7 and riot vehicles armed with tear gas. Source: Nathan Goodman

Figure 10: Bridge Blockage at Standing Rock



Bridge blockade taking place outside the Standing Rock main camp in Cannonball, North Dakota on 11/20/2016. Police shot water cannons in sub-freezing temperatures, launched tear gas, and fired rubber bullets at protesters. Rockies fellow Nathan Goodman – a participant – had to receive medical attention for mild hypothermia. The protest, generally, is a visceral pronouncement of Indigenous peoples' determination to defend their cultural and natural resources. Source: Nathan Goodman.

cultural, and spiritual reasons, was entirely incompatible with Indigenous peoples' sense of self and community. Ultimately, the interests of capital and the inertia of development took precedence over averting the spiritual death and physical endangerment of sovereign nations. They were cast-off as negligible and unavoidable consequences, thrown away and forgotten. Rather than being a unique outcome, DAPL stood out for being a more overt iteration of the ongoing conquest of Indigenous peoples' land and culture – the typical pageantry around consultation was disregarded, though the end result is mostly the same.

Even where tribes are denied a full seat at the table, they refuse to be silenced. Standing Rock provides a great example of protest, but so too do the Lake Nighthorse proceedings display persistence and virility. The attitude of Indigenous representatives demonstrates their unwillingness to accept the expectation of being a vulnerable and bedraggled people that deserve an honorary place on a museum shelf. Tim Martinez of the Pueblo of San Ildefonso remarked, "I expect respect, trust, and discipline... we have claims because of migration and worship" (Ibid.). During consultation, tribal members are incredibly outspoken about areas where they have some say in decision-making.

In the case of Lake Nighthorse, some of the fought-after concessions included clearly marking the perimeter of the parking project and expressing concern about the project's proximity to cultural objects, effect on access to wild foraging, and the sustainability of a walking path along easily eroded areas (Ibid.). Indigenous peoples, when given the opportunity, exercise an intrepid will towards civic participation. In the end, takeaways from the Lake Nighthorse are more hopeful than futile – the energies and engagement of tribal representatives set a positive model for the role they will hopefully hold in a more efficacious public lands co-management regime.

Colorado Springs: Local Levels of Cultural Resource Management

Understanding regional levels of policy-making enables a more integrated and comprehensive study of local resource management. First and foremost, recognizing the scope of actors is a critical yet exhaustive

task. Starting with municipal government, Matt Mayberry is Colorado Springs' "Cultural Services Manager" (and Director of the Pioneer's Museum) and oversees the collection, administration, and public dissemination of cultural resources and heritage sites. Beneath him is Anna Cordova, the Colorado Springs City Archeologist – the presence of the position alone is particularly significant, given it is rare for a city to have their own archeological office. Overlap exists between archeological claims on city-administered lands and those of other agencies, most notably El Paso County's Planning Division and the local branch of the USFS, members of which include: the Pikes Peak District Ranger (Oscar Martinez), Pikes Peak National Forest Planner (Jon Dow), Pikes Peak Forest District Archeologist (Julie Bell), and Pikes Peak Ranger District Resource Staff (Jeff Hovermale).

In addition to the typical duties of maintaining a multiple-use forest, the Pike Peak Ranger District (PPRD) functions as a corollary to the *Pikes Peak Highway* – a city owned and operated pay-per-use resource on USFS land that maintains a paved road and contracts private food and souvenir vendors to service Summit House visitors (Brent Botts, personal communication 2017). This reveals a yet another component to the regional cultural resource management matrix – it is a network of various government offices that does work and interfaces with the private sector and research institutions.

Anna Cordova frequently conducts field work with student teams from UCCS (her alma matter), amongst whose faculty there is a significant presence of scholars engaged in the study of Indigenous affairs (Linda Watts, personal communication 2017). Added to this are networks of local, amateur, "hobbyist" archeologists (organized primarily by the Pikes Peak Chapter of the Colorado Archeological Society - or the PPC of the CAS),

who maintain keen interest in finds all over Colorado. Civic participation in studying local history is typically welcomed, though at times the energies of amateur archeologists become somewhat misdirected. Preservation of sites often entails keeping groups such as these at bay to dissuade unwanted attention and foot traffic. Additionally, a lack of awareness regarding the cultural history of ancestral objects and dwellings – which encompass the berth of traditional knowledge and memory – opens the door to accidental abuses of cultural property. Known local sites range from fire pits and ancestral campgrounds at Garden of the Gods to high-density sites around Jimmy Camp Creek and Corral Bluffs.

Private organizations in Colorado Springs engaged in Indigenous cultural affairs include the Colorado Springs Indian Council (CSIC) and "One Nation Walking Together." The former is largely defunct, with reported issues ranging from a relative degree of disorganization to the co-opting of leadership by non-Indigenous members of the Colorado Springs community (Cordova, personal communication 2017). The latter is a non-profit group that, while based in Colorado Springs, operates regionally to provide support services and infrastructural aid to

Figure 11: Anna Cordova Conducting Fieldwork



Anna Cordova looks at a piece of glass among scattered artifacts in a drainage area near a city park on Thursday, April 6, 2017. Her role allows the city to conduct more thorough archeological surveys and engage more comprehensively in tribal consultation. She is the first archaeologist for the City of Colorado Springs. Source: The Colorado Springs Gazette.

bring economic relief to struggling reservations (Wohlrob, personal communication 2017). They conduct an annual pow wow fundraiser which, in some respects, functions as an organizing event for the Indigenous community, but mostly is a vehicle to market *Indian wares* (selling digestible trinkets from the perceived pan-Indigenous culture) and move money from the hands of non-Indigenous tourists to the organization.

It is a type of cultural exchange that is becoming more and more common; akin to tourism, *selling culture* (mostly tours and crafts) becomes a profit-making venture. There is nothing inherently wrong with this type of arrangement – communities such as the Hopi Nation and Taos Pueblo have successfully implemented this strategy and used it to provide critical services to the community. That said, it only begs the question of when and where the sale of cultural property starts becoming inappropriate. The simple answer is that it should be decided by Indigenous communities who hold ancestral claims to that knowledge. When analyzed more concretely, however, the question becomes more problematic. Who among Indigenous communities has the right to determine the appropriateness of knowledge being disseminated to larger, non-Indigenous audiences? Who holds the power and supremacy over traditional knowledge to determine what is acceptable to share, along with when and where? Questions of this nature have recently been brought to the fore in Colorado Springs, with a particular management conundrum centered around “*Ute Prayer Trees*.”

Introduced to the greater Colorado Springs community in the 1980’s and 90’s by the Pikes Peak Historical Society (PPHS, based out of Florissant, Colorado and pioneered by Celinda Kaelin), *Ute Prayer Trees* have become a regular feature in the popular mythos of the region (PPHS communications). Commonly identified by strips of scarred bark, bends in the trunk, and limbs pointing in the direction of Pikes Peak, Prayer Tree “tours” are frequently conducted in public areas, especially in recent years. Of particular note are the tours held in Fox Run Park (Black Forest) by the charismatic and controversial John Anderson.

Former local sheriff turned cultural historian, Anderson has become the popular face of the Prayer Tree

Figure 12: Culturally Modified Tree



An example of a bent tree in the Cheyenne Mountain area that, like many others in the Pikes Peak Region, has been classified a “Ute Prayer Tree.” According to prayer tree advocates, the trunk was manipulated at various stages of its development to conform to a distorted shape they believe has spiritual significance. That claim is disputed, by official representatives of the three Ute Tribes and local foresters. Source: Action Matrix.

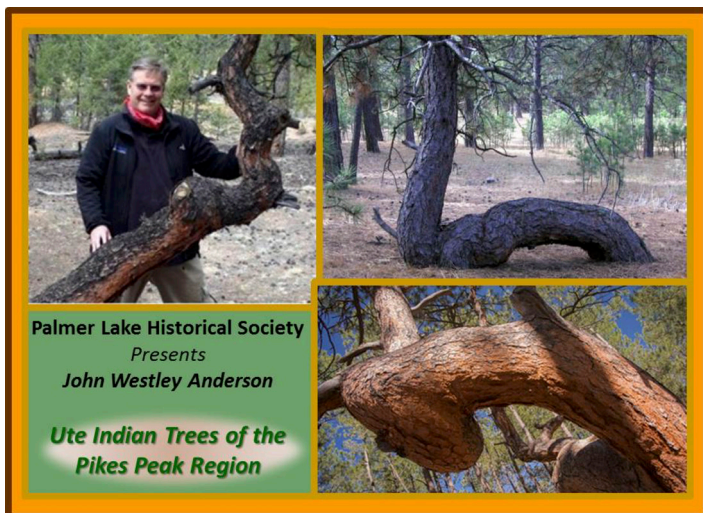
movement. According to distributed materials from his office (Anderson & Associates), the Utes “believed Prayer Trees lifted their prayers up the tree towards their Creator, where their prayers were intermingled with the prayers of their tribal ancestors who had previously prayed around the tree...when the winds [would blow], they felt the pine needles released their prayers, which would be carried across the land for the next 800 years.”

Quite rapidly, Anderson’s tour operations have escalated into a fully-fledged business, with speaking engagements and seminars held across the state. In addition to performing private and public consultations at a rate of up to \$250 per hour (Anderson & Associates, 2017), he is working on publishing his second coffee table book. In a particularly controversial event, he acquired an El Paso County contract to catalogue “prayer trees” using funds from an account related to the county’s Federal Emergency Management Agency (FEMA) budget—an illicit maneuver, given that Anderson is not a licensed

archaeologist and thus an unqualified recipient of public funds (Celinda Kaelin, personal communication 2017).

The civic virtue of educating citizens about prayer trees is limited because, for the most part, Ute Prayer Trees have become a marketable commodity, a means of selling the knowledge of Indigenous peoples to a mainstream, colonial audience. This is problematic because the sale of traditional practices to non-Indigenous people has the potential to reveal “taboo” knowledge and cheapen ancestral teachings by presenting over-simplified histories. Additionally, it puts this knowledge in the hands of people who are unaware of its larger cultural context, and are therefore more liable to manipulate and distort what they learn. All these issues frame the foremost concern in this particular case: the historical claims made by proponents of Ute Prayer Trees are disputed by foresters, professional archaeologists, and—most importantly—official representatives of all three Ute tribes (Atencio, personal communication 2017).

Figure 13: John Anderson Promotional Material



An advertisement for one of Anderson’s many speaking engagements. He also has a book for sale and conducts private consultations for up to \$250 per hour. Source: Palmer Lake Historical Society.

Cassandra Atencio (née Naranjo), the acting NAGRPA coordinator for the Southern Ute Tribe, very quickly dismissed “prayer trees” when asked about them. “We are a mountain people,” she says, “we would never do this to trees” (Ibid.). While there are some examples of legitimate *culturally modified* trees (such as peeled-bark trees, where a layer of the tree is eaten), official representatives of

the Ute Mountain Ute, Southern Ute, and Ute & Ouray Indian Tribes have insisted that bent-prayer trees should not be attributed to their people. The trees do not appear in recorded oral histories or their ethnographic record. Aside from the sheer impracticality of a migratory people meticulously pampering and styling trees they see only a few times a year, there’s no hard-evidence supporting an anthropogenic basis for the bends in the trees. Local foresters have taken coring samples of the trees (with the permission of Terry Knight, Sr., THPO and Ute Mountain Ute member) and discovered that they were only 60 to 70 years old—having grown well after Ute peoples had been pushed out of the region (Cordova, personal communication 2017).

Figure 14: Cassandra Atencio



Cassandra Atencio (née Naranjo), giving a formal farewell to her father (Alden Naranjo) during his retirement party. Cassandra has taken over the NAGRPA position vacated by Alden and is the acting cultural liaison for the Southern Ute Tribe. A critical contact at all stages of research, she is responsible for the invitation to attend the annual Sun Dance. Source: Southern Ute Drum.

There are plenty of legitimate scientific explanations for why the trees are bent in such a way (like snowpack changes or genetic tendencies). There is no reason to jump to such an unlikely and controversial explanation. Support for the CMT thesis is found amongst individual tribal members (often with dubious claims to leadership),

who leverage their claims against the stated position of tribal governments. The almost-blind faith attached to these “rogue Indians” draws attention to a critical double-standard that Indigenous peoples often face – one tribal member is taken for representing not only their tribe, but are misidentified as representing the whole sum of the pan-Indian community. Taking the word of official tribal representatives is essential as those representatives are in those positions due to their knowledge of their tribe’s history and traditions. They are also less likely to abuse and fabricate knowledge in such a way that is harmful to the rest of the community (Ibid.). Unfortunately, this perspective is lost on many Colorado Springs residents.

Having assembled a few symbolic “Ute representatives,” Anderson uses his Indigenous cohorts as a shield to ward off criticism from official tribal leadership. Indeed, for an otherwise well-intentioned non-Indigenous person, it can be difficult to decide which Indigenous voice to listen to. The fear that Indigenous government officials do not accurately represent their people’s cultural history is entirely valid. That said, this concern fails to account for the idiosyncrasies of the relationship between the mainstream American culture and sovereign tribal nations.

According to intergovernmental treaties between the United States and tribal entities, Americans are required to respect the sovereignty and self-determination of Indigenous peoples within their territory.¹⁹ Felix S. Cohen, a legal scholar specializing in Indigenous law, once wrote; “Perhaps the most basic principle of all Indian law, supported by a host of decisions, is that those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished” (Referenced by Hanschu 2014, 6).

That said, the respect of tribal sovereignty called for by legal principles is often disregarded by the American government and moneyed interests. The already

abhorrent track-record of the U.S. breaking treaties gives all the more reason for individuals to recognize their role in the strata of U.S.-Indigenous relations and give total deference to tribal governments on social and cultural issues. In keeping with the theme, it is not the place of the Colorado Springs community to decide which Indian knows more about their culture. There is, however, a responsibility (let alone a legal mandate) to respect the role of a self-determining government and to help maintain Indigenous control over traditional knowledge—non-Indigenous voices claiming wisdom should be quiet by comparison.

This conclusion leads to another set of questions, most notably when and where are Indigenous perspectives truly integrated into the policy process? On a federal and state level, there are officials like Susan Johnson (Regional Tribal Relations Program Manager, USFS Rocky Mountain Region) and Ernest House, Jr. (Executive Director of the CCIA) who hold key leadership positions, though very seldom do tribal members occupy high-ranking U.S. government posts if that office has not been expressly created to handle tribal affairs. Looking at the local level, however, Anna Cordova is quite the rarity. Seldom seen are Indigenous archeologists, as the methodology and ideological slant of the discipline is inherently at odds with Indigenous worldviews (analyzing heritage as relics as opposed to the cultural history of a living people).

Even genuinely well-intended government agencies and archeologists employ an approach to intergovernmental-tribal relations that is dominated by western ideas. “The current American landscape represents the historical legacy of one worldview superimposed on another, the colonial overlaying the indigenous” (Kimmerer 2001, 36). This is epitomized by the wording of an EIS document cataloging cultural resources for the “Upper Monument Creek Landscape Restoration Area;” “The cultural resource surveys... have resulted in the identification and recordation of sixty-two archaeological sites. The sites are predominately

¹⁹ “The source of tribal sovereignty is American Indian peoples, who mutually consent to self-government by their Tribes since powers of government flow from the consent of the governed; thus, tribal sovereignty refers to the inherent right of tribal peoples to govern themselves. The Institute for the Development of Indian Law defines sovereignty as the supreme power from which all specific political powers are derived. Sovereignty for Native peoples has existed since time immemorial, pre-dating the U.S. Constitution, but has been recognized by Article 1, Section 8 of the U.S. Constitution and confirmed through treaties, statutes, executive orders, and Supreme Court decisions, Tribes have been recognized in federal law as distinct, independent, political communities with the power to govern their own members and territories” (Hansch 2014, 5).

historic resources (n = 52), with a small representation of prehistoric sites (n = 10). In addition, twenty-eight isolated finds were recorded. Again, the majority of which are historic (n = 22), compared with prehistoric resources (n = 6). Of the total sites recorded, eight are considered officially eligible for listing on the NRHP, while seven are recommended as ‘needs data officially’ (Dow, 165). The language is precise, yet formulaic – the numbers are devoid of cultural content, the ancestral resources described are unrecognizable from a traditional perspective.

There is simply a deficit of Indigenous voices, reflecting a long-held colonial assumption in which it is incumbent upon tribal members and leadership to adapt to the language and methodology of the western ruling-paradigm. This same mindset is what enables issues like Ute prayer trees – which, as objects, appear to hold little-to-no import to Ute communities – to take time and attention away from more salient issues of cultural resource management and the protection of legitimate ancestral sites. Whether or not we like to hear it, non-Indigenous people hold the decision calculus on which issues of Indigenous cultural resource management will be brought to the forefront, or those that will spend forever loitering in policy purgatory. Indigenous voices and perspectives are the only checks that can keep our agencies and officials accountable. The question then becomes, how do we draw those voices more closely into the policy process? Looking at centuries of U.S.-tribal misconduct, it may seem an impossible task, though in small-steps progress can (and already has) been made. The remaining parts of the report investigate the path that lies ahead for Colorado Springs and the Pikes Peak Region.

Exploring a “Bicognizant Worldview”

The term “Bicognizant Worldview” is used frequently by Angie Krall, Heritage Program Manager for Rio Grande National Forest (Krall is incidentally a graduate of Colorado College Class of ’92). Typically, interviews ended with the stock question, “Who else should I be talking to, and where can I find models for consultation done right?” Invariably, Krall was brought up as a person of interest. The San Luis Valley, on first glance, is an unassuming and somewhat surprising place to find national-trendsetting

innovation to cultural resource management practices. Closer examination, however, reveals how the SLV is exactly the kind of space in which those types of advances are most likely to emerge.

First and foremost, there is a long-history of Indigenous settlement in the region, with a particular-history based in the hispano-mestizo communities of the 19th century (Davidson 2015). Pueblos in Northern New Mexico are a relatively short-drive away, and the region has not seen a significant enough explosion in urban density, in-migration, or industry to substantively change more long-held community dynamics.

The local climate is such that personal histories with policymakers and USFS officials can, at times, range into the decades – the problem of attrition within the federal offices is less an issue here than it is elsewhere. As such, it is possible to form intergovernmental and inter-agency relationships based on genuine trust and camaraderie as opposed to mutual convenience. Additionally, the San Luis Valley does not experience significant stress from development and does not boast an overwhelming-load of lucrative natural resources. In short, the land is held at a relative low-value, water is scarce, and many families have maintained continuous settlement in the region for the last five-hundred years.

It all starts with listening, but not in the same way that U.S. societal precepts would make us think. It is entering a space where our traditional ways of assessing value no longer serve us. Meaningful consultation cannot be achieved by a government briefing, reading guides, or attending meetings – though all of the above certainly help. It is easy to forget, oftentimes, that non-Indigenous

Figure 15: Angie Krall



Pictured is Angie Krall, the Heritage Program Manager for Rio Grande National Forest and is a catalyst for intergovernmental collaboration on issues of cultural resource management in the San Luis Valley. She provides a model for many of the best practices proposed in the report. Source: Rio Grande Headwaters Land Trust.

agency officials and researchers have their own culture, too, and that culture is inherently at odds with the object of consultation. Participants in a collaborative study between members of the Leach Lake Band of Ojibwe (LLBO) and Chippewa National Forest agency officials reflect on the experience:

“When the Forest Service would propose an activity...our role was to use our connections to help guide them. We would tell them which spaces are someone’s sugaring area, hunting area, or blueberry gathering area if it’s something we use, then it should be protected. It’s that simple... A lot of it comes from the heart, just living on the land and knowing what needs to be protected” (Bussey 2016, 101).

The same divide can be captured by the way one organism relates to another; “A tribal member will look at a turtle and see it for what it is. That’s my brother. A white man scientist will go pick it up, turn it over, pull its leg, poke its eye, touch its teeth... I wouldn’t want to be treated that way” (Ibid.). Perhaps performing consultation correctly requires as great an epistemic leap as being able to conceive a turtle’s pain as one’s own.

When members of the Southern Ute Tribe were sought for interviews, the manner of response varied significantly from what is, otherwise, the norm. There was no interest in scheduling a specific time and day – I was not about to find a sweet three-hour timeframe in which all of my questions could be answered. The request was made, rather, just to “hang out” for a while. My surprise at the Sun Dance reflects fundamental differences between Indigenous and western worldviews.

The esoteric and academicized framing of research does very little for tribes. For one, knowledge conveyed through writing over an illusory web-interface loses its weight and abandons the rich texture and meaning of oral histories (Basso 1996). Additionally, there is an active incentive to limit the transmission of knowledge outside the community, both for fear the knowledge may be abused, but also out of indifference to the stated goal of the research being conducted. What does it matter to a tribal elder if they are quoted in a journal they have never read, the results of which will never impact their life or lifestyle? The exercise of aiding research is often perceived as pointless, self-defeating and a waste of time.

Language, too, takes on a distinctly different character in this context. “In the native tradition, the spoken word is recognized as powerful because it is conveyed with the breath of life... Indeed, words have the capacity to reveal the world view at their roots” (Kimmerer 2000, 8). The way we use words transforms our reality and while, in English, “the forest is a natural resource,” many Native American languages do not have a linguistic equivalent, and “the meaning of ‘forest’ is closer to the meaning of ‘home’” (Ibid.). Agency officials and foresters who fail to recognize the concept of “forest” as home, fail to appreciate the nuances of Indigenous cultural attachment.

What is called for is the broader acceptance of Traditional Ecological Knowledge (TEK), framed by Berkes as “...a cumulative body of knowledge, practice, and belief... handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment” (Bussey, 98). The relationship between fire and forest management highlights this divide:

“The policy of fire suppression in Western society arises from the myth that nature can be controlled. Ironically, trying to control nature through fire suppression has led to greater unpredictability. The indigenous world-view emphasizes the dual nature, creative and destructive, of all forces... The role of humans is not to control nature, but to maintain a balance between these opposing forces” (Kimmerer 2001, 38).

Even an ethic as time-honored as *Leave No Trace* becomes problematic when examined from an Indigenous worldview. Only half-jokingly, a tribal member once told Angie Krall; “If my ancestors practiced LNT, you’d be out of a job”. The “traces” ancestors left behind are critical pieces of cultural memory. Moving forward, agency officials need to let go of some of the hubris that cloaks western ideals of nature and conservation.

Such understanding functions *a priori* to the mechanical rigors of consultation, providing the foundation upon which to build a relationship. In similar fashion, introductions in an Indigenous setting hold real weight (Sun Dance, personal communication 2017). For meaningful conversation to take place, you cannot just know someone’s name. You have to know their last name,

Figure 16: Sun Dance Flyer



An invitation to the 2017 Southern Ute Sun Dance. Informal research was conducted on site for the full-scope of ceremony. That said, the focus of participation mostly geared towards building relationships, as opposed to "data recovery." The latter is an out-dated mode of research that alienates tribal partners and performatively reasserts colonial hegemony. Source: Southern Ute Tribe.

where they are from, where their parents are from, what they do, and why they are here. Officials who hide behind emails and dismiss interpersonal rapport are effectively negating the aims of consultation. It follows the logic, "If you don't know me, how can you listen to what I am saying?"

I was granted the invitation to camp with the Naranjo family of the Southern Ute tribe and attend their Sun Dance, less to advance my research, and more so we could get to know each other before the research even began. Anxiously sitting with pen-and-paper in hand – the same over eager attitude reflected in many formalized consultations – would make things uneasy. Instead, I made myself useful; helped with chores, cleaned, let myself be

teased by elderly Ute women, and eventually, by and by, I came to be accepted enough that my presence wasn't questioned. I was a guest and a friend of the family, a "new cousin." Community forms the bonds of family, and the most meaningful cross-cultural work takes place when that relationship of "family" is extended across national borders. To be with a group in spirit, and not just towards the purpose of collecting data, is the essence of ethnography and part of what makes the discipline distinct from policy research.

While camping with a family for five days is beyond the reasonable scope of almost any intergovernmental proceedings, the imperative remains; make consultation more holistic and break-away from the tone set by bureaucratic malaise. Here is where Rio Grande National Forest provides a useful model. Established in 2008, Krall and other parties in the San Luis Valley spearheaded an intertribal and intergovernmental *Memorandum of Understanding* based, primarily, around synergizing efforts to collaborate on NAGPRA (Krall, personal communication 2017). Boasting multi-lateral participation from four federal natural resource agencies (NPS, USFS, BLM, & USFWS) and many of the tribes with claims to ancestral lands, the compact establishes general rules of practice that are uniquely suited to the needs and interests of the region. In addition, it establishes general guidelines for contacting tribes, conducting consultations, and performing annual meetings with all signees present.

The latter feature is particularly significant, as it enhances transparency and brings all the agencies into the same room at once. Seldom would the USFS and FWS meet with the same tribe at the same time despite the many overlapping interests and concerns. By merging meetings, it cuts back on redundancy and reduces the cost incurred by both the tribes and the U.S. government to attend said meetings. Additionally, if a particular agency is struggling with a limited budget in a given year, agreements exist in which other agencies can help shoulder the financial burden.

Contrast this arrangement to the Pikes Peak Region, where if the USFS sometimes cannot afford to administer stipends for tribes to attend an important consultation, the infrastructure does not exist to borrow funds from

other departments and the consultation will likely fall short – a lack of resources sometimes makes the process of ‘checking a box’ unavoidable. The central take-away is that these strategies are adaptive and sensitive to diverging cultural considerations, setting the stage for “meaningful consultation” to take place.

Returning to strategies applicable to Pikes Peak, it would be a mistake and oversimplification to “copy and paste” the Rio Grande National Forest MOU into the Colorado Springs geopolitical landscape. For one, the focus on inter-agency cooperation would yield less results, as most of the public lands in the region are under the purview of the USFS, Colorado Springs Parks and Recreation, and State Parks – regional considerations call for a different type of cross-jurisdictional working relationship. Added to that is the lack of proximity to any nearby reservations or established Indigenous communities.

The extent of cultural displacement is two-fold; beyond the relative ignorance of Colorado Springs residents to the regions ancestral past, few Utes or members of other historic tribes really know much about the significance of these ancestral lands either (Sun Dance, personal communication 2017). Pikes Peak and Garden of the Gods were (and still are) significant landmarks – the middle path between the plains and the peaks – yet they have begun to fall out of the Ute cultural conscience in a manner similar to all of the many other places in the United States where Indigenous peoples have been systematically pushed out.

Talking about Pikes Peak amongst Southern Utes was often met with some measure of surprise, with responses ranging from “It’s a big mountain” (Ibid.) to “I never knew we lived there until I was nearly thirty, and I have never visited” (Edward Box, III, personal communication 2017). Some efforts are made to embark on a kind ‘pilgrimage’ to ancestral grounds along the peak, though these are few-and-far between. Jeff Hovermale, who manages the USFS side of Pikes Peak Highway and the adjoining recreation area, remarks that he at most receives one or two closure requests per year, if even that. Additionally, in the last fifteen years only a single tribe has submitted any requests at all (Jeff Hovermale, personal communication 2017). The

Pikes Peak Resource Staff Manager stressed that, if tribes want to visit or need additional resources or road closures, they simply though have to ask. That said, his approach is based from a well-intentioned, yet unmistakably western-centered perspective.

Tribes should not be placed at fault for failing to “reach-out”, as most lack the material and economic resources to comfortably subsist on their own territory, let alone make the financial investment to travel several hours, take time off work, and participate in site-specific ceremonies for which they never had the opportunity to receive adequate education or training. Added to that is the predicament in which many Indigenous peoples – acting according to the traditional practice – don’t like to “ask for access” (Atencio, personal communication 2017) and, instead, will just come unannounced. Hovermale, thus, does not have an accurate measure with which to gauge Indigenous interest or usage of the mountain. In these respects, the cultural resource management puzzle of the Pikes Peak Region is something of a catch-22, with neither side having a real way forward or a way out.

Looking to how the SLV NAGPRA Working Group reimagined the relationship of U.S. officials to tribes in the San Luis Valley, a similar conceptual approach could be adopted by Pike National Forest. Talking with Jon Dow (Pike National Forest Planner) and Anna Cordova (City of Colorado Springs Archeologist), there are a few particular areas in which to focus: creating a collaborative framework through which to coordinate USFS and city management operations, engaging more comprehensively with the urbanized Indigenous community of the Colorado Front Range, creating more easily-accessible educational opportunities for displaced ancestral peoples (with a particular focus on youth education), and taking an active role in negotiating the forthcoming adjustments to the Pike National Forest Plan.

To elaborate, it is best to start with the final item. Jon Dow, as the (then) acting Pike National Forest Planner, was responsible for putting into motion procedural rules for the conduct and management of the forest. These duties are included, but were not limited to: preparing EIS’s, designating the process through which improvements and maintenance projects are negotiated, and determining the

decision calculus through which these projects are given priority (Dow, personal communication 2017). Every few decades, a new “Forest Plan” is put into effect which sets the standards and operational arrangements for the forest and its management. The current Forest Plan, written in 1984, is heavily-commodity based, focused primarily on building relationships with the ski and timber industries and employing fire mitigation strategies (Ibid.). Few guidelines are set for navigating issues of cultural resource management.

In stark contrast is the 2012 U.S. Department of Agriculture (USDA) Forest Service Planning Rule. Setting a new and decisive trajectory, the Planning Rule “directs officials... to request information about native knowledge, land ethics, culture, and sacred and culturally significant sites as part of the tribal participation and consultation process in land management planning” (Bussey 2016, 98). Pike National Forest is set to begin the process of scoping their new plan in the near future, the breadth of which will be quite far-reaching (Dow, personal communication 2017). We find ourselves at a critical political moment, where, through substantial public pressure, media attention, and outreach, we can hope to integrate a more comprehensive set of guidelines for consultation and intergovernmental relations with tribal bodies.

Giving cultural resource management a more prominent place in the new forest rule creates the political window in which to craft an MOU with the City of Colorado Springs, who themselves are in the beginning stages of crafting their first cultural resource management (CRM) plan (Matt Mayberry, personal communication 2017). The city has made efforts, as of late, to become more proactive – as opposed to reactive – in how they handle cultural resources. Similar to the state, there is less formality attached to the city’s role in performing consultation, yet the city has demonstrated the ability to correctly identify Indigenous remains from a washout and reinter those remains according to NAGPRA protocol in Spring 2016. Mayberry highlights how federal agencies often move too fast conducting cultural resource inventories – the city is making efforts to hold itself to a higher standard (Ibid.). Steadily, institutional change is taking place. Summer of 2017, for instance, saw the Colorado Springs City Council vote into effect a city code

prohibiting the collection of archeological remains on city land. It doesn’t seem like much, but it lays the framework for more promising reforms in the future.

Mayberry is careful not to rush along the process, recognizing a long set of pre-cursors to building a successful cultural resource management plan. The timeline is dependent on fulfilling a compulsory public comments period and, subsequently, will await feedback from the COS Parks and Rec advisory board (Ibid.). Additionally, before launching into comprehensive inter-agency agreements, Mayberry is keen to avoid any expected pitfalls – the struggle of determining designated duties and “who does what, when, and where.” Looking ahead optimistically, however, components of the proposed MOU could include: cracking down on lapses in pre- and post-planning consultations for Environmental Impact Statements; designating procedures for joint-meetings between city officials, the USFS, and tribal representations; joint-allocation of funds for tribal-programming and outreach; the designation of public facilities and infrastructure as meeting places for Indigenous groups and complementary housing during cultural pilgrimages; and bureaucratic leeway that would give more space for “creative mitigation” in consultation proceedings.

Used commonly enough that it has almost become a catchphrase, “creative mitigation” is the idea of proposing non-traditional and innovative co-management solutions at the consultation table (Dow, personal communication 2017). A few steps beyond just limiting damage to ancestral sites or negotiating signage, creative mitigation strives to provide Indigenous communities with the tools and resources so they can better connect and build upon their relationship to the ancestral past. Integrating tribal education into mitigation proposals, one must walk a fine line. It is critical that City, State, and Federal officials do not get into the role of “teaching Native American’s about their own history” (Mayberry, personal communication 2017). Rather, it is imperative to engage in a more open-dialogue with tribes and to allow Indigenous representatives to form a consensus on how to best utilize U.S. government resources towards their pedagogical aims.

As a hypothetical, take the case of proposed trail maintenance that would require bringing in heavy machinery and disturbing ground in the proximity to ancestral fire-pits. After pushing to limit construction to crews using non-mechanized tools (which may or may not be successful), there is a recognition amongst Indigenous groups that, project in question aside, the area has already been dramatically impacted. The Indigenous worldview is not additive in the same way as western culture – their view of land is more holistic, and weighing the difference between a stretch of territory in which 30% of the land has been disturbed as opposed to 50% is more or less insignificant. Things have already changed past the point of return, and small victories are typically more symbolic than they are material.

Figure 17: Ute Culture Camp, 1977



In August 1997, Clifford Duncan and Besty Chapoose of the Northern Ute Tribe and Kenny Front of the Southern Ute Indian Tribe participated in a Ute Culture Camp at Trappers Lake deep in White River National Forest. It represents a type of cultural transmission that provides educational services to tribal members that reconnects them with ancestral territory. The same type of effort, its argued, should be at the heart of “creative mitigation.”

Source: Durango Herald, courtesy of Andrew Gulliford.

Cassandra Atencio offered her perspective on “cultural resources.” Sometime in the previous year she was preparing a ceremonial board for a newborn according to traditional practices. She found a suitable piece of wood and began stripping bark and shaping the wood by hand.

In a moment of epiphany, she realized that the small wood chips falling at her feet were a part of her cultural heritage – they are just as much “artifacts” as the completed board (Atencio, personal communication 2017).

The Utes have a respect for the natural passage of time, and ancestral objects are viewed in remarkably similar light, regardless of whether they can be recognizably identified or if they have long since broken-down, decomposed, and had their constituent parts recycled by the processes of nature (burial sites are the one notable exception). When trees are artificially cleared and the horizon broken, the link to those ancestral wood chips has already been (at least partially) obstructed and clearing more space just adds salt to a wound that already burns. The damage has been done. It is for this same reason that tribes do not rise up in joy at the prospect of, for instance, deconstructing a wickiup, cataloguing every constituent twig, and recreating the shelter in a fenced-off, temperature controlled museum exhibit. It maintains the appearance of culture, without any of the content – celebrating heritage, while dismissing a living people.

Moving past symbolic victories, there are steps that can be taken to give Indigenous partners concrete and measurable gains. Taking the same example, perhaps it would help to add a prominently-featured informational kiosk at the entrance to the park, written with the approval of tribal members, that explains the history of ancestral habitation in the region and provides instructions on how to best respect that cultural memory. Another institutional response could include waiving entrance fees for registered tribal members, creating part-time employment opportunities, and providing structured educational and recreation outlets for tribal youth. Programs such as these require more oversight and funding than simply placing a “warning sign” on the broad side of a tree trunk, yet deliver meaningful gains for tribes that expand – rather than memorialize – their place along ancestral lands.

Using technology has at times been suggested as a tool to bridge gaps in cross-cultural communication and collaboration. Most notably, *Human Ecology Mapping* and *Participatory Geographic Information Systems* (PGIS)²⁰

²⁰ “PGIS provides a framework for assembling and integrating such knowledge by providing a common map-based mechanism for the involvement of traditional knowledge holders in the description of and decision-making about processes related to space. PGIS avoids expert decision-making that can later be challenged simply for not being able to incorporate good understanding of local knowledge about local history and relationships with places” (McBride, 3).

are based on the idea of using visual reference points to code cultural-meaning onto landscapes, which can then be implemented and put into consideration during consultation and public lands management planning. According to McBride, “PGIS acts counter to the approach of command and control of environmental management issues by including traditional knowledge holders in the planning process, with the goals of including their perspectives on the problem and promoting shared knowledge, understanding, and trust between all parties to avoid conflict and/or facilitate conflict resolution” (McBride, 3).

Testing the viability of PGIS systems, Jon Dow collaborated with Joe Vieira (BLM Rocky Mountain District, Browns Canyon National Monument Project Manager & Planning and Environmental Coordinator) to use similar such techniques to map uses for Brown’s Canyon National Monument – itself a complex, multi-lateral government management area with a history of Indigenous habitation (Dow, personal communication 2017). The groundwork is taxing: fielding extensive public surveys, open forums, and focus groups – all of which require more time, labor, and resources than established consultation protocol.

While it is a step in the right direction to use more accessible mediums to communicate with tribes, mapping locations of interest goes against many tenants of Indigenous communities’ worldviews. To identify and name features on a map is to diminish the intangibles of cultural history that cannot be written down or photographed (Basso 1996). On top of that, there is a fear that by revealing places of cultural interest to non-Indigenous communities (especially by putting a pin on a map) there will inevitably be increased traffic to those areas. Indigenous people’s primacy over traditional knowledge and cultural practice will, to a degree, be usurped (Troyer; Yaquinto, personal communication 2017). Techniques such as PGIS demand a total transference of knowledge to function correctly, which is a rather onerous burden to place on native communities. The technology has its applications, although it needs to be used within the context of other ethnographic considerations.

Often discussions of environmental policy focus chiefly on the role of government, especially within the sphere of tribal relations. That said, the private sector already plays a critical role in the cultural resource management theatre and opportunities for innovation within these sectors are extensive and, frankly, rather exciting to explore. Interviews conducted with Jessica Yaquinto of “Living Heritage Anthropology” (a CRM Ethnography Firm based out of Cortez, Colorado – a city in the center of the Four Corners region, adjacent to the *Ute Mountain Ute* reservation) reveal the extent to which her firm (and others like it) are contracted by both U.S. government archeologists and tribes to conduct field interviews and write ethnographic reports (Yaquinto, personal communication 2017). Stepping in after consultation has formally started, CRM firms conduct what Yaquinto calls “little c” consultation – the gritty work of performing comprehensive, ethnographic fieldwork. Indeed, much of the groundwork behind what is reported in an EIS stems from work rendered by these offices. For-profit ventures, they deliver professional and (ideally) unbiased reports on cultural landscapes, with a focus on creating a usable set of recommendations for agency partners.

Some cultural resource management firms can function as a highly valuable “middle-man” between U.S. government offices and Indigenous communities. In her own words, Yaquinto sees herself as a cultural broker more than anything else; “I learn and I translate and I mediate.” Whereas, for instance, a USFS archeologist may turn over three-times in ten years, the CRM firm is able to maintain a longitudinal relationship with Indigenous working partners. Outside the scope of the new Forest Planning Rule or intergovernmental MOU’s, CRM firms follow the ethics requirements and education opportunities set forth by national organizations like the America Cultural Resources Association (ACRA), amongst others to hold themselves and their colleagues to a higher investigative standard (Ibid.). Through measures such as these, CRM firms can, to a degree, hold USFS and BLM offices more accountable to uphold their duties under the NHPA and Section 106 (for instance, more strictly enforcing pre- and post- planning consultation meetings).

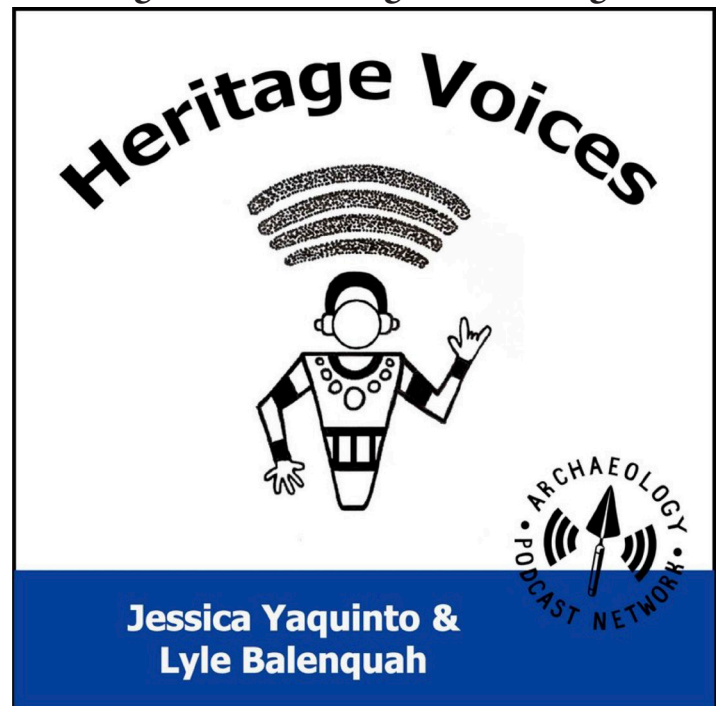
Perhaps most significantly, government offices are

overworked, overwhelmed, and simply do not have the time and personnel to conduct comprehensive consultations in one-hundred percent of cases (Ibid.). In addition, federal agencies often do not know how much they are missing of the larger context – a job for which more experienced and regionally-established firms are aptly-prepared. By relying more heavily on highly-vetted CRM firms to shield the burden of fieldwork and “little c” consultation, fully incorporating tribes into policy procedure becomes a less impossible proposition. There are some services which are required to be performed by official U.S. government representatives, such as making first contact with Indigenous nations – a process that has to abide by standard codes for conducting government-government relations (Ibid.).

However, taking a step back from the nuts and bolts of consultation – and really anything having to do directly with government – Yaquinto also produces “Heritage Voices,” a podcast that explains the process of cultural resource management and highlights issues of Indigenous advocacy. Co-hosted by Lyle Balenquah (Hopi Archeologist), episodes consist of interviews with various U.S. government officials, archeologists, and Indigenous rights activists (some of which have also been interviewed as part of this report, namely Anna Cordova and Dr. Holly Norton). After the first few episodes, the scope was narrowed even further, only taking on visitors from the Native American community. It is an interesting experiment in positionality where Yaquinto (a Jewish woman trained in archeology) puts her agency in the background and, instead, uses her position of influence to leverage the voices of Indigenous community members. In other words, it is a re-centering of the narrative away from the historically oppressive structures of anthropology that performatively emboldens and lends credibility to Indigenous perspectives on U.S.-Tribal politics.

While most of the other best-methods practices described here exclusively engage the government and auxiliary offices, Heritage Voices is distinct because it seeks, as part of its audience, the otherwise-uneducated public. It posits a more holistic view of policy, one that includes the public as active members and participants. The argument is such that if the public becomes educated on these issues and learn to approach cultural resource

Figure 18: Heritage Voices Logo



Jessica Yaquinto and Hopi archaeologist, ethnographer, and educator, Lyle Balenquah, host the Heritage Voices podcast. The goal of the project is to provide a platform for indigenous voices in anthropology, CRM, heritage, and land management discussions. It is a critical piece in decentering the narrative on cultural resources that, more-often-than-not, is dominated by non-Indigenous archeologists that see “history” and “heritage” as firmly grounded in the past – neglecting to fully consider traditional peoples that still, very clearly, are living in the present. Source: Living Heritage Anthropology; Heritage Voices.

management from an Indigenous-centered perspective, they can exert pressure on public officials to positively impact conditions specific to consultation policy.

Additionally, there are structures within policy that allow for recourse against negligent proceedings. According to the *Citizen’s Guide to Section 106*, “A vigilant public helps ensure federal agencies comply fully with Section 106. In response to requests, the ACHP can investigate questionable actions and advise agencies to take corrective action. As a last resort, preservation groups or individuals can litigate in order to enforce Section 106” (Citizen’s Guide to Section 106, 20). Similarly, NEPA regulations require agencies to “make diligent efforts to involve the public in preparing and implementing their NEPA procedures” and “provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents” (NEPA and NHPA, 14). In a sense, projects like “Heritage Voices” provide the educational resources and the outreach to enable civic participants – many of whom are non-Indigenous – to become better advocates for judicious cultural resource management.

On a broader level, this work can be seen a way to subvert and refocus notions of ‘white savior-ism’ that, when left unchecked, help escalate controversies like the Ute prayer trees debacle in Colorado Springs. Genuine interest in other cultures is certainly critical in engendering collaboration and the effective administration of policy, though the obsession with “Ute Prayer Trees” indicates a particular level of presumption amongst members of the non-Indigenous community. It is imperative that we reject the albeit well-intentioned voice (heard at a meeting of the Pikes Peak Chapter of the CAS) who says: “We know more about their (Ute) history than they do, so how will they ever know anything unless they listen to us?” (PPC of CAS site visit, personal communication 2017).

Heritage Voices is just a single component of what must become a multi-pronged effort to not only mobilize the public around Indigenous affairs, but to also ground those movements according to Indigenous worldviews. To Yaquinto, her work is part of a larger push to reimagine the practice of archeology more along the lines of “Community-based participatory research” (CBPR). A radical departure from the classical mindset, the approach is based in training community-members to participate, collectively, in cataloguing their own cultural history (Yaquinto, personal communication 2017). It enables the communities in question to shape the research along the way and maintain intellectual property rights. “Returning research to the community” becomes an anthem asserting the legitimization of Indigenous-centered geography, both in academic circles and in the hearts and minds of people (where it matters most).

Generally, this report calls for a dramatic reimagining of tribal relations around a marbled federalist framework that incorporates multi-lateral, inter-governmental collaboration alongside liberal components of broad-spectrum industry support and grassroots mobilization. That said, the machinations of society often fail to create the “ideal set of circumstances” and the current list of recommendations may be unrealistic. What separates this research from the bulk of policy work, however, is its

focus on the intangible elements of bringing together two-entirely separate worldviews in a collaborative setting. As such, to enable any concrete change in policy, much work has to be done in the stages of reimagining attitudes and coming to terms with how other cultures formulate relationships and concepts of heritage. Attacking the obsolete institutions of consultation from every possible angle is imperative, as making small gains on one front – even if the only thing that changes is the way people see themselves – lays the groundwork to catalyze reforms on a larger-scale.

A Realistic Future for Comanagement

Scanning through the literature of policy topics ranging from wildlife conservation to fire mitigation and toxic waste disposal, “co-management” is an oft-cited, hot button phrase that is just as powerful as it is elusive. Consultation is a start, but co-management as a principle encompasses the inclusion of Indigenous partners (along with various other stakeholder parties) in all stages of development and decision-making - creating a community of mutually-efficacious civic partners. New Zealand (Ainge Roy, 2017) and Hawai’i²¹ (Cordova, personal communication 2017) – as places with an extensive sense of Indigenous cultural identity – have rather wide-sweeping regulations and provisions for consultation which create an environment more comparable to co-management *in vivo*. Perhaps it is unreasonable to bring up these case studies as suitable comparisons, given extreme differences in circumstance there is likely very little of substance that can be transplanted directly. A more useful model – and one much closer to home – examines the designation of the *Sand Creek Massacre National Monument*.

Reflecting a tortured era in Colorado’s history, the National Monument serves as both a commemoration to the suffering experienced by the Cheyenne and Arapaho tribes and as a reminder of the atrocities we, as a military state, are capable of committing both within and outside our borders (Kelman 2013). Given the highly sensitive nature of the place as well as the monument’s mission, Indigenous incorporation was not only sought, but outright demanded. Beyond acting in just an

²¹ “Although the State of Hawai’i has gone further than most to attempt to include the Hawaiian voice in legal procedures, it fails when colonialism surfaces in the final decision-making processes. When Western science is in opposition to indigenous worldviews, the non-indigenous planners are able to assert their colonialist power over the colonized through rhetoric and superior social and economic sway” (Cordova, 54).

advisement capacity – making suggestions on signage, monument placement, etc. – Indigenous authorities are actively engaged in the ongoing management of the site. Colloquially, it is said that an NPS employee will not even change a light-bulb without first submitting a request to an Indigenous partner (Norton, personal communication 2017). While maintaining a monopoly on lighting fixtures may be somewhat extreme, it reflects a system one would hope could be implemented in other areas of prominent cultural and historic significance – Pikes Peak and Garden of the Gods offer interesting co-management propositions.

It is impossible to mention “National Monuments” and “co-management” without, in that same breath, bringing to attention the ongoing Bears Ears controversy. Designed as a partial co-management arrangement, the monument placed representatives of five tribes on a permanent *advisory council*, or *Commission* (Yaquinto, personal communication 2017). Even without any inherent decision-making power, Bears Ears set a historic national precedent that gave hope to other Indigenous communities trying to play a bigger role in public lands management. Ryan Zinke and the Department of the Interior’s (DOI’s) efforts to open public lands to business interests and fossil fuel production threatens to reverse that precedent. The shrinking of Bears Ears National Monument is about more than just southern Utah – it sends a symbolic message that the federal government (or, at the very least, this administration) does not care about tribal members’ stake in ancestral lands and feels no obligation to respect tribal sovereignty.

Per an earlier article in the Fall 2017 State of the Rockies Bulletin (“National Monuments in the Era of Post-Truth Politics,” by former Student Fellow Jonah Seifer), there is enough legal recourse available to tribes and conservation groups that it appears unlikely the DOI’s plans to modify Bears Ears will actually yield permanent, substantive changes to its management design. Still, it is essential to consider the ripple effect of policy, both positively and negatively. Just as much as Bears Ears’ undoing could break the back of progressive cultural resource management, the successful defense of Bears Ears could spark an advocacy campaign that makes co-management agreements more commonplace across the nation. For this reason and so many more, public

engagement in advocating for Bears Ears is critical – it would be a shame to remain idle and let this crucial moment slip away.

Engaging in ‘meaningful consultation’ is difficult as it demands extensive resources (time, labor, and money) and requires the synergistic cooperation of oftentimes competing government bodies. A traditional worldview has to be at the forefront of engaging traditional cultural sites – it is not history to put on a mantle, but a living culture integrated with its ancestral past. In other words, an arrowhead is meaningless absent the surrounding soil, vegetation, and view along the horizon. A site-specific valuation of knowledge and cultural objects need be recognized (Sun Dance, personal communication 2017). Many US government agencies are working effectively to expand the reach of cultural site management to Indigenous peoples. More effective consultation can be the gateway to an expanded set of government services reaching tribes.

Figure 19: Local Consultation for Camp Creek Improvements



Consultation involves extensive site visits and meetings between tribal representatives, local government, and agency officials. Pictured here is a consultation taking place in Colorado Springs.
Source: City of Colorado Springs.

Forthcoming revisions to the BLM Royal Gorge Field Office 'Eastern Colorado Resource Management Plan' and 'Pike National Forest Plan' offer a rare opportunity to systematically integrate a more comprehensive set of standards for tribal consultation. 'Creative mitigation' does not always mean leaving places of previous habitation untouched. Rather, it means arriving at opportunities to reconnect the ancestral past with the present – creating a bridge between Indigenous peoples on the reservation and in the urbanized community to utilize forests and public lands for traditional and educational purposes. Young tribal members – a generation apart from the boarding school era – are “thirsty for culture” (Krall, personal communication 2017). Minimizing sites to “pieces of heritage” defies all Indigenous senses of meaning and place—the Ute people, though displaced, are not dead, and their ancestors exist in the present just as much as the past.

Colorado Springs residents' idea that Indigenous cultural resources—real or not—can be circumscribed by their property or contained by public lands is, from an Indigenous perspective, highly disrespectful. That said, “Indian rage and white guilt” are not the starting points from which we can begin to move forward. Krall recalls Rumi when she says, “beyond right and wrong, there is a field”, and that's where consultation happens. She finishes with a smile, and quotes First Nation member and singer Buffy Sainte-Marie; “White Guilt is like rubbing bison dung on your face, instead dry it out and make a fire with it.” Far aside from promoting the multiple-use of forests, the principal role of USFS officials in cultural resource management and consultation is – most simply – to become vehicles for reconnecting to the ancestral landscape (Krall, personal communication 2017).

There is no good solution. Indigenous peoples have been dislocated and their ancestral land marred by colonial settlement and extractive resources. There is no means of offering complete 'restorative justice.' By creating a more robust infrastructure for tribal consultations, we achieve a more tangible goal of producing a bridge for tribal communities pushed to the fringe to connect with ancestral lands and engage in meaningful co-management with U.S., State of Colorado, and local agencies. There is a Ute saying, “When forever comes, we will be here” (Site visit to the Southern Ute

Museum in Ignacio, Colorado). Engaging in efficient Tribal consultation and co-management strategies will help turn that statement from prophecy into a reality.

Doing Ethnography: A Brief Meta-Analysis

With any project, the question inevitably arises; “*Why are we here, and what's the point?*”

Unpacking that statement, we arrive at a series of other questions, most notably: “Who are we writing this for, and will it help or hurt?” I was reminded of this question during a meeting with Alden Naranjo, a Southern Ute elder and former NAGPRA representative, who has also worked in local law enforcement and is currently a leader in the Native American Church (Alden Naranjo, 2017). It was at his family's invitation that I attended the Southern Ute Sun Dance (July 7th-10th, 2017). Those days consisted less of standard interview questions, and more time just “hanging out,” doing chores, getting teased, and – for many periods – sitting in silence. I came as a researcher, but was received as a guest and friend, and was treated as any other friend would be. Removed from the auspice of “conducting research” in a proper sense, I left the Sun Dance with a new sense of community, though having accomplished very little in terms of concrete analysis. The meeting with Alden was my opportunity to put on the research hat again, and that's what I did. I asked questions and received answers; the typical spiel.

Reaching for my notepad during a short lull in conversation, Alden started to break away from the topic. To the best of my ability, this is what he said:

“Students, researchers – they come here and stay for three days, three weeks, maybe three months. They're nice and helpful, but then they leave. They write their book. It has their name on it. They got what they are looking for and then they are done. What do we get? Nothing. Another researcher comes, and they always leave the same way.”

By no means an attack, I took Alden's comments at first as a warning; “My research,” I told myself, “was going to be different.” In some ways it is different, but in many respects it's not. My research, no matter how well-intentioned, cannot escape the reality that it is the summation of “extracted” knowledge that is, at its most basic level, self-serving. Performatively speaking, even

the label “My research” conveys a sense of ownership – an appropriation of the knowledge I have taken from elsewhere and, specifically in reference to Indigenous communities, an implicit continuation of generations-long held colonial attitudes.

Figure 20: Alden Naranjo (S. Ute) Examining Petroglyphs



Alden Naranjo (at the time, the acting NAGPRA representative and cultural liaison for the Southern Ute Tribe) examines a petroglyph at a Colorado Springs archeological site. During consultation, he explains some of the significance of the petroglyphs to government officials – their presence likely constitutes increased level of protection for the area, possibly even grounds to shut down a part of the project completely. Source: City of Colorado Springs.

That is the task of ethnography, is it not? To write down and record that which is not yours. Yes, but I would also like to argue there is a way of doing ethnography “right”. This post-script is a start (and a possibly dangerous one, given how easily that can fall into indulgent, self-apologetic banter). In her graduate thesis, Cordova argues how “investigations should not be conducted until scholars ask who is ultimately benefitting from research into indigenous lives. This needs to be done in order to protect indigenous people from those who would exploit their knowledge” (Cordova 2016, 8; Referencing Coombes 2006 & Katz 1992). The logic is echoed by Michael Foucault, often noted for the saying “Knowledge precedes power.” The knowledge I have extracted from a variety of stakeholders, policymakers, and Indigenous communities has given me the power to shape the narrative that will, soon, be presented to a larger audience. Through their willingness to be interviewed, I have been granted a fleeting – and perhaps somewhat unfair – power over their voice.

The question I am left with, and the question I would

like to leave you with as the reader, is how can we take that knowledge and use it (in possibly contradictory fashion) to give subjects of ethnographic study – the Ute tribes, along with the whole host of Indigenous peoples who have called the Pikes Peak Region home – the power and agency to take back control of their narratives and stories. It is a call to action, of sorts, to remind yourself and everyone you know that Indigenous communities cannot be spoken for – not by stuffy archeologists, not by John Anderson, not by anyone. They speak for themselves.

Hopefully this report can serve as a vehicle to help force the issue of improving tribal consultation and cultural resource management on the policy agenda. Indigenous people have always had a voice and they have never stopped using it – we only need open our institutions, free our minds, and un-clog our ears of colonial wax so we can finally listen.

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Appendix I: Catalogue of Interviews

6/10: Visit to “One Nation Walking Together” Pow wow

6/12: Nat Miullo [phone]
– NEPA Lead Reviewer

6/13: Jessica Wohlrob
– Americorp intern for “One Nation”

6/14: Celinda Kaelin
– Florissant Resident, Former President of Pikes Peak Historical Society

6/16: Scott Clow [phone]
– Environmental Program Director for Ute Mountain Ute Tribe

6/19: EV Justice w/ Corbin Darling, Jean Belille, and Michael Wenstrom
– Region 8 EPA EV Justice Program Director with associates

6/20: John Anderson
– Former Sheriff, Local Prayer Tree ‘Expert’

6/20: Curtis Martin/PPAC Talk
– Archeologist, Lead Investigator of the Colorado Wickiup Project

6/21: Anna Cordova
– Colorado Springs City Archeologist

6/22: Brent Botts
– [Former] Pikes District Ranger

6/26: Jon Dow
– [Former] Pike Nat. Forest Planner

6/27: Amanda Sanchez [phone]
– PSICC Forest Archeologist

6/27: Callie Videtich [phone]
– Region 8 EPA TAP (Tribal Assistance Program) Director

6/29: Linda Watts
– [Former] UCCS Professor of Anthropology

7/6: Jim Pitts
– USFS Salida District Ranger

7/6: Joe Vieira
– RM District National Mon. Program Manager & Environmental/Planning Coordinator

7/7: Michael Kunkel
– Founder and Advocate, Friends of Browns Canyon Nat. Monument

7/7-10: Southern Ute Sun Dance
Cassandra Atencio (S. Ute. NAGPRA), Stephen Sachs (“Indigenous Policy” Editor)

7/11: Alden Naranjo
– [Former] S. Ute NAGPRA Representative

7/11 Edward Box III
– S. Ute Cultural Director

7/11 Garrett Briggs
– S. Ute NAGPRA Apprentice

7/12: John Smiens [phone]
– BLM Royal Gorge Plan Coordinator

7/13: Michael Troyer [phone]
– BLM Royal Gorge Field Office Archeologist

7/21: Holly Norton/Todd McMann
– History Colorado, State Archeologist/Deputy SHPO

7/21: Susan Johnson
– USFS Region 2 Tribal Affairs Program Manager

7/24: Angie Krall [phone]
– Rio Grande Nat. Forest Heritage Program Manager

7/24: Jeff Hovermale [phone]
– Pikes Peak Resource Staff

7/25: Ernest House Jr. (Ute Mountain Ute member)
– Director, Colorado Commission of Indian Affairs

7/27: Nat Miullo [phone]
– NEPA Lead Reviewer

7/27: Rick Water (DIC) [phone]
– Denver Indian Center, runs ‘Honoring Fatherhood’ program

8/2: Angie Krall
– Rio Grande Nat. Forest Heritage Program Manager

8/2: Jessica Yaquinto
– Living Heritage (CRM Firm), Heritage Voices (Podcast)

8/3: BoR Lake Nighthorse meeting
– Kristen Bowen (BoR), Betsy Chapoose (N. Ute, NAGPRA), Nikki Shurack (Ute Mountain Ute, Assistant NAGPRA)

8/8: Matt Mayberry [phone]
– Colorado Springs Cultural Services Manager

Appendix II: Brief History of Tribal Sovereignty

Courtesy of the Colorado Commission of Indian Affairs, "State-Tribal Consultation Guide: An Introduction for Colorado State Agencies to Conducting Formal Consultations with Federally Recognized American Indian Tribes"

The following brief summary provides an overview of the history of various levels of federal support for tribal sovereignty and government-to-government relationships in the United States.

Colonial Era (1533–1775)

During this period, European countries entered into treaties with Tribes, who were afforded a similar status as colonial governments. Treaties sought to end hostilities, establish the boundaries of Indian lands, and regulate trade. **U.S. Federal Era (1776–1823):** The national government of the new United States continued treaty-making with Tribes in this period. Unilateral laws of the new nation also began to regulate and restrict interactions between Tribes and States, especially concerning trade and land transactions (e.g., Trade and Non-Intercourse Act of 1790). Article I, Section 8 of the U.S. Constitution gave power to the Congress to “regulate Commerce with . . . the Indian Tribes.”

Removal Era (1823–1871)

The beginning of this period is characterized by U.S. Supreme Chief Justice John Marshall’s opinions, which set the precedent that Tribes are “domestic dependent nations.” Federal law continued to maintain that only the federal government, not the states, had authority over Tribes. A major federal law was the Indian Removal Act of 1830, which provided for agreed-upon or even forced removal of many Tribes primarily to western lands on which Indian reservations were created. The end of this period is marked by the Appropriations Act of 1871, which ended U.S. treaty-making with Tribes.

Assimilation Era (1871–1934)

This period is characterized by federal laws and policies aimed to break up tribes and integrate Indian peoples into mainstream American society. The General Allotment/Dawes Act of 1887, which divided reservation lands into individual parcels, encouraged independent land holding and agriculture. “Surplus” lands were sold to non-Indians. The Indian Citizenship Act of 1924 conferred citizenship on Indian people who had not already gained that status through service in the armed forces, assimilation, or other methods.

Reorganization Era (1934–1953)

In 1934, the Wheeler-Howard/Indian Reorganization Act sought to restore some vestiges of tribal sovereignty lost during the Assimilation Era. Tribes were encouraged to establish formal governments and constitutions.

Termination Era (1953–1968)

House Concurrent Resolution 108 reversed federal policy reorganizing and recognizing tribal governments and abolished federal relations with more than 50 Tribal governments. This period also is characterized by federally funded programs designed to move Indian individuals from reservations to major cities.

Self-Determination Era (1968–Present)

Stirring of Indian consciousness following the Termination Era led to a dramatic increase in advocacy once again for tribal sovereignty. In 1972, President Nixon announced an official policy of Tribal self-determination. In 1975, Congress passed the Indian Self-Determination Act. Today, the United States officially recognizes 566 separate American Indian and Alaska Native tribes.