



BACKGROUND INFORMATION REGARDING THE DEER CREEK USE RESTRICTION



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Deer Creek as a Traditional Cultural Property

Deer Creek has been identified as a traditional cultural property (TCP) by the Hopi, Zuni, Hualapai, and the Southern Paiute tribes (Las Vegas Paiute, the Moapa Band of Paiute Indians, the Paiute Indian Tribe of Utah, the Kaibab Band of Paiute Indians, and the San Juan Southern Paiute). A traditional cultural property is an historic property that is eligible for inclusion in the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that are 1) rooted in that community's history, and 2) important in maintaining the continuing cultural identity of a community (USDOJ 1990, revised 1992; 1998).

TCPs are often composed of ethnographic resources which are significant to traditionally associated peoples. Tribes are considered to be traditionally associated with a park when they regard park resources as essential to their development and continued identity as a culturally distinct people; the association has endured for at least two generations (40 years) and the association began prior to the establishment of the park (NPS Management Policies 2006).

TCPs can include, among other things, archaeological sites and features of prehistoric or historic age, collection areas, water, minerals, natural landmarks and topographic features, plants, and animals. Combinations of these elements can be defined as *cultural landscapes*. Cultural landscapes are historic properties that are also eligible for inclusion on the National Register (NPS Management Policies 2006) as sites or districts.

In the sections that follow, we report on significant aspects of the Deer Creek area to the traditionally associated tribes who consider it a TCP and cultural landscape. This information is followed by a discussion of the National Register eligibility of the Deer Creek area as a TCP and Grand Canyon National Park's (GCNP) responsibility to manage the area as a cultural resource. We provide information from monitoring activities undertaken by the tribes and GCNP cultural resources program specialists and recommendations generated through monitoring sessions to mitigate impacts to the cultural resources of the area. Finally, we provide information on legislation and agency policy that support the decision to restrict access to a portion of the narrows within the Deer Creek drainage.

The Significance of the Deer Creek Area to the Canyon's Traditionally Associated Tribes

Deer Creek is significant for the role it has played in the lives of the people of the Hopi Tribe, the Pueblo of Zuni, the Hualapai Tribe, and tribes of the Southern Paiute. Each tribe has a special connection to the area related to their individual cultural histories. The Southern Paiute people farmed, collected plants, and hunted along the Colorado River as early as about A.D. 1150 (Euler 1969).

"Historically, many Southern Paiute people died when Euro Americans encroached upon [their homelands], bringing foreign people, domestic animals, and diseases. Paiute people soon lost control over most of the tributaries of the Colorado River like the Santa Clara River, the Virgin River, and Kanab Creek. As Paiute people were forced out of [these areas], they retreated to the Grand Canyon to live in regions of refuge that were not being entered by Euro Americans" (University of Arizona 1994:1).

Thus, the Grand Canyon as a whole, and Deer Creek specifically (Southern Paiute Consortium, no date), were elemental to the survival of Southern Paiute culture. Its classification as a traditional cultural property and cultural landscape is a reflection of the importance of the area to the continuation of Southern Paiute cultural identity and lifeway.

National Register Eligibility of the Deer Creek TCP

The property is considered eligible under Criterion A¹ for its association with important events or patterns of events in the history, prehistory, or culture of the Southern Paiute tribes, Hualapai Tribe, Hopi Tribe, and the Pueblo of Zuni. The property is also considered eligible under Criterion D for the archaeological and ethnographic information it is known to contain or is likely to contain that is important in history and prehistory.

A brief overview of Deer Creek as a National Register Eligible Property

- The entity is a tangible property that may be described, subject to tribal consultation, as a site.
- The property retains integrity of relationship with traditionally associated American Indian Tribes of the Grand Canyon.
- The property retains integrity of condition. Though there are modern intrusions into the landscape, including trails, campsites, and a toilet, these intrusions constitute a small enough area not to make Deer Creek ineligible for inclusion on the National Register.
- The area retains integrity of location, setting, materials, workmanship, feeling, and association (see Appendix A for details on these elements of integrity).

National Park Service (NPS) Responsibilities for Preservation of Eligible Properties

- Grand Canyon as Steward of Native American Heritage: The Park is the primary steward of Native American heritage for 11 tribes with Grand Canyon traditional associations including overseeing archaeological and historic sites, traditional cultural properties, and management of culturally important natural resources (USDOI 2010).
- The National Park Service will employ the most effective concepts, techniques, and equipment to protect cultural resources against theft, fire, vandalism, overuse, deterioration, environmental impacts, and other threats without compromising the integrity of the resources (NPS Management Policies 2006).
- Historic properties under the agency jurisdiction, or control of the agency, are to be managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values (National Historic Preservation Act, 1966 as amended).
- Prevent or minimize the destruction or loss of, or injury to, the cultural resource (NPS Management Policies 2006).

“Southern Paiute people perceive sites as consisting of more than just archaeological materials and other remains (University of Arizona 1994:193). Broader perceptions of an archaeological site include natural resources such as plants, animals, and water in a larger spatial area than

the more narrowly bounded “site” in archaeological terms” (University of Arizona 1995:69).

This perspective is important both in terms of understanding how Southern Paiute people view the resources within Deer Creek from a holistic perspective and for understanding how seemingly unrelated human impacts can adversely affect the condition of the Deer Creek area as a whole (see further discussion under Monitoring Activities below).

Monitoring Activities for the Deer Creek TCP and Archaeological Sites

Tribal Colorado River Monitoring

“Although the same site may be observed, the same metrics recorded, resulting interpretation is defined by cultural values, training, experience, and background, among other things. Because of their long history of natural resource use, tribes offer an inherently holistic perspective of the environment and its management” (Hopi Tribe, 2006:17).

The tribes began monitoring locations along the Colorado River corridor in 1995 as a result of the development of programmatic agreement in response to an Environmental Impact Statement and Record of Decision for the operation of Glen Canyon Dam. Participating tribes, Hopi, Zuni, Hualapai, and the Southern Paiute Consortium, negotiated with the BOR to expand the extent of monitored areas to include TCPs and other sites of significance (Hopi Tribe 2011). Deer Creek became part of the monitoring cycles of a number of tribes, principally, the Southern Paiute, Hualapai, and Zuni based on these negotiations.

In 2001 The Hualapai identified Deer Creek as a TCP and conducted a baseline evaluation of the area at that time, including examination of plants and archaeological materials. The 2001 report states “Heavy trailing was evident throughout the TCP, along with severe deterioration of the river bank due to high levels of boat and tourist activity. Trailing and visitor-related impacts are present both at the base of the falls near the river and Deer Creek Valley” (Hualapai Tribe 2001). Monitors assessed Deer Creek on a rated scale related to natural and human impacts. A rating of zero indicated that impacts were absent. A rating of four indicated that an impact was severe. Natural impacts to Deer Creek were rated as a 2.5, while human impacts to the area were rated as a 3.5. The 2011 Hualapai monitoring findings (Hualapai Tribe 2011) report similar impacts but states “Overall activity along the Colorado River Corridor continues to negatively impact Hualapai TCPs, associated archaeological features, and ethnobotanical [plant] resources. Human impacts are most responsible for declining integrity.”

The Southern Paiute Consortium (SPC) has monitored Deer Creek since 1995. Monitoring has been uniform, always including vegetation monitoring, monitoring the rock art site, B:10:0005, along the narrows, and visitor activities. Purposeful vandalism (graffiti) and inadvertent damage to the rock art panel were reported. Monitors repeatedly recorded visitors rappelling and climbing in the gorge [narrows]. Specific information related to site impact was described in 2007; “Due to concerns about the behavior of visitors at the site, Southern Paiute monitors systematically record visitor behavior in two-hour shifts at multiple sites along the trail and in the canyon. Tourists have been observed jumping into the water and swinging and hanging from

ropes. Individuals were also observed picking, discarding, and trampling plants for no apparent reason. Rocks, both large and small, were also being thrown about. Trailing is a concern in this area of concentrated use and disturbance” (Southern Paiute Consortium 2007).

In response these impacts the SPC took action by making presentations at the annual river guides training seminar, publishing its own guide (Southern Paiute Consortium, no date) to share with the river community, and adding information to its website about the significance of the Deer Creek area.

“The SPC has expressed the desire that all their cultural resources in the Colorado River Corridor be preserved as they are. This reflects the Southern Paiute people’s general preservation philosophy about their traditional lands and the animals, plants, artifacts, burials, and minerals that exist within these lands” (University of Arizona, 1995:74).

NPS Colorado River Monitoring

Monitoring of visitor impacts to archeological sites has a long history at Grand Canyon, beginning with informal studies in 1978 under the direction of the park’s first anthropologist, Robert Euler. Since the early days of monitoring, park efforts have become more rigorous in identifying the cause and effect relationship of visitation to archeological sites.

The emerging ethno-scientific approach of Traditional Ecological Knowledge (TEK) combines the methodologies of cultural and natural science disciplines, paying equal attention to past and current relationships between indigenous cultures and the natural world. TEK is a source of ecosystem knowledge with strong potential for use in understanding condition, conservation, and restoration (Kimmerer 2002).

The National Historic Preservation Act of 1966 (as amended) directs federal agencies in a program of historic property preservation and management. The actions and goals associated with this process require knowledge of the sites, disturbances, and treatments to prevent integrity loss. This program is accomplished through site condition assessments and includes all sites within GCNP. All Colorado River Management Plan (CRMP) related monitoring activities overlap with this park-wide program and allow the park to assess if the historic, archeological, architectural, and cultural values of historic properties in the project area are being maintained or if work is necessary to preserve those values.

Information from NPS and tribal monitoring activities and reports from visitors are used to help identify disturbances and threats to cultural resources in the Deer Creek narrows. Appropriate mitigations from natural or human-caused disturbances are the outcome of disturbance identification and analysis.

- Vandalism diminishes elements of integrity of setting, materials, workmanship, and feeling.
- Social trails disturb material contexts, damage archaeological materials and artifacts, harden soil, disturb plant populations, and encourage water erosion. These disturbances diminish elements of integrity of setting, materials, and feeling.

- Plant disturbance from rappelling. Though the narrows gorge is not vegetated, the face of the falls is. Visitor’s report that “plants were torn out” as people rappelled through the falls. This disturbance diminishes the elements of integrity of setting, materials, and feeling.
- Climbing hardware. Installation and abandonment of climbing hardware affect the elements of integrity of setting, materials, and feeling.

Justification of Restriction

With an increase in adventure sports such as rappelling, elements of the Deer Creek TCP are being disturbed. If unchecked these disturbances will diminish the National Register eligibility of the Deer Creek area as a TCP. The analysis of disturbances to the Deer Creek narrows resulted in a decision to restrict climbing and rappelling within a portion of the narrows in late 2011.

“The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g) of this Act, any preservation as may be necessary to carry out this section” (National Historic Preservation Act of 1966 as amended, Section 110).

Legal Requirements Applicable to This Action

Cultural resource management within the Park is guided by a hierarchy of laws, regulations, policies, and agreements. Management of park resources unimpaired for the benefit and enjoyment of future generations requires knowledge of the resource types and their condition. Specific legislation directs NPS under an overarching purpose of preservation.

Antiquities Act of 1906 (P.L. 59-209, 34 Stat. 225): provided for protection of historic, prehistoric, and scientific features on federal lands, with penalties for unauthorized destruction or appropriation of antiquities; authorized the President to proclaim national monuments; authorized scientific investigation of antiquities on federal lands subject to permit and regulations.

National Park Service Act of August 25, 1916 (P.L. 64-235, 39 Stat. 535): established the National Park Service; directed it to manage the parks "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Historic Sites Act of 1935 (P.L. 74-292, 49 Stat. 666): declared "a national policy to preserve for public use historic sites, buildings, and objects . . ."; authorized the programs known as the Historic American Buildings Survey, the Historic American Engineering Record, and the National Historic Landmarks Survey; authorized the NPS to "restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national

historical or archaeological significance and . . . establish and maintain museums in connection therewith"; authorized cooperative agreements with other parties to preserve and manage historic properties.

National Historic Preservation Act of 1966 (P.L. 89-665, 80 Stat. 915; as amended by P.L. 91-243, P.L. 93-54, P.L. 94-422, P.L. 94-458, P.L. 96-199, P.L. 96-244, P.L. 96-515, P.L. 98-483, P.L. 99-514, P.L. 100-127, and P.L. 102-575): declared a national policy of historic preservation, including the encouragement of preservation on the state and private levels; authorized the secretary of the interior to expand and maintain a National Register of Historic Places including properties of state and local as well as national significance; authorized matching federal grants to the states and the National Trust for Historic Preservation for surveys and planning and for acquiring and developing National Register properties; established the Advisory Council on Historic Preservation; required federal agencies to consider the effects of their undertakings on National Register properties and provide the Advisory Council opportunities to comment (Section 106). Amended in 1976 (P.L. 94-422) to expand Section 106 to properties eligible for as well as listed in the National Register. Amended in 1980 (P.L. 96-515) to incorporate E.O. 11593 requirements (see below), to give national historic landmarks extra protection in federal project planning, and to permit federal agencies to lease historic properties and apply the proceeds to any National Register properties under their administration. Amended in 1992 to, among other things, redefine federal undertakings, address "anticipatory demolition," and emphasize the interests and involvement of Native Americans and Native Hawaiians.

Executive Order 11593, *Protection and Enhancement of the Cultural Environment*, May 13, 1971 (36 FR 8921): instructed all federal agencies to support the preservation of cultural properties; directed them to identify and nominate to the National Register cultural properties under their jurisdiction and to "exercise caution . . . to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished, or substantially altered."

Archeological and Historic Preservation Act of 1974 (P.L. 93-291; 88 Stat. 174): amended the 1960 Reservoir Salvage Act; provided for the preservation of significant scientific, prehistoric, historic, and archeological materials and data that might be lost or destroyed as a result of federally sponsored projects; provided that up to one percent of project costs could be applied to survey, data recovery, analysis, and publication.

General Authorities Act of 1976 (P.L. 94-458; 90 Stat. 1939): allowed the secretary of the interior "to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects."

Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 712): defined archeological resources as any material remains of past human life or activities that are of archeological interest and at least 100 years old; required federal permits for their excavation or removal and set penalties for violators; provided for preservation and custody of excavated

materials, records, and data; provided for confidentiality of archeological site locations; encouraged cooperation with other parties to improve protection of archeological resources. The law was amended in 1988 to require the development of plans for surveying public lands for archeological resources and systems for reporting incidents of suspected violations.

Federal Regulations, Policies and Agreements

Regulations are promulgated and published in the *Code of Federal Regulations* (CFR) to direct the implementation of laws. The following CFR citations are most pertinent to cultural resource management.

36 CFR 2.5 (NPS Act of 1916) states conditions under which park superintendents may permit collection of plants, fish, wildlife, rocks, and minerals, including museum catalog requirements.

36 CFR 60 (NHPA and EO 11593), "National Register of Historic Places," addresses concurrent state and federal nominations, nominations by federal agencies, revision of nominations, and removal of properties from the National Register.

36 CFR 63 (NHPA and EO 11593), "Determinations of Eligibility for inclusion in the National Register of Historic Places," establishes process for federal agencies to obtain determinations of eligibility on properties.

36 CFR 65 (Historic Sites Act of 1935), "National Historic Landmarks Program," establishes criteria and procedures for identifying properties of national significance, designating them as national historic landmarks, revising landmark boundaries, and removing landmark designations.

36 CFR 68 (NHPA) contains the secretary of the interior's standards for historic preservation projects, including acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction.

36 CFR 79 (NHPA and ARPA), "Curation of Federally Owned and Administered Archeological Collections," provides standards, procedures and guidelines to be followed by Federal agencies in preserving and providing adequate long-term curatorial services for archeological collections of prehistoric and historic artifacts and associated records that are recovered under Section 110 of the NHPA, the Reservoir Salvage Act, ARPA and the Antiquities Act.

36 CFR 800 (NHPA and EO 11593), "Protection of Historic and Cultural Properties," includes regulations of the Advisory Council on Historic Preservation to implement Section 106 of the National Historic Preservation Act as amended and presidential directives issued pursuant thereto.

43 CFR 3 (Antiquities Act) establishes procedures to be followed for permitting the excavation or collection of prehistoric and historic objects on federal lands.

43 CFR 7, Subparts A and B (Archaeological Resources Protection Act, as amended), "Protection of Archeological Resources, Uniform Regulations" and "Department of the Interior Supplemental Regulations," provides definitions, standards, and procedures for federal land managers to protect archeological resources and provides further guidance for Interior bureaus on definitions, permitting procedures, and civil penalty hearings.

National Park Service Management Policies (2006) is the basic Service-wide policy document of the National Park Service. Adherence to policy is mandatory unless specifically waived or modified by the Secretary, the Assistant Secretary or the Director.

NPS-28 Cultural Resource Management Guidelines (2006) identifies the most appropriate formats for developing research, planning, and stewardship which include cultural resource protection, preservation, and data recovery.

National Park Service-wide Programmatic Agreement (2008) identifies the establishment of NPS standards and technical information designed for the identification, evaluation, documentation, and treatment of historic properties consistent with the spirit and intent of the National Historic Preservation Act.

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Appendix A

Understanding the Elements of Integrity

http://www.nps.gov/history/nr/publications/bulletins/nrb15/nrb15_8.htm

Location

Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in rare cases, the relationship between a property and its historic associations is destroyed if the property is moved.

Design

Design is the combination of elements that create the form, plan, space, structure, and style of a property. It results from conscious decisions made during the original conception and planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture, and landscape architecture. Design includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials.

A property's design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and colors of surface materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in a designed landscape.

Design can also apply to districts, whether they are important primarily for historic association, architectural value, information potential, or a combination thereof. For districts significant primarily for historic association or architectural value, design concerns more than just the individual buildings or structures located within the boundaries. It also applies to the way in which buildings, sites, or structures are related: for example, spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archeological sites.

Setting

Setting is the physical environment of a historic property. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the *character* of the place in which the property played its historical role. It involves *how*, not just *where*, the property is situated and its relationship to surrounding features and open space.

Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve. In addition, the way in which a property is positioned in its environment can reflect the designer's concept of nature and aesthetic preferences.

The physical features that constitute the setting of a historic property can be either natural or

manmade, including such elements as:

- Topographic features (a gorge or the crest of a hill);
- Vegetation;
- Simple manmade features (paths or fences); and
- Relationships between buildings and other features or open space.

These features and their relationships should be examined not only within the exact boundaries of the property, but also between the property and its *surroundings*. This is particularly important for districts.

Materials

Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The choice and combination of materials reveal the preferences of those who created the property and indicate the availability of particular types of materials and technologies. Indigenous materials are often the focus of regional building traditions and thereby help define an area's sense of time and place.

A property must retain the key exterior materials dating from the period of its historic significance. If the property has been rehabilitated, the historic materials and significant features must have been preserved. The property must also be an actual historic resource, not a recreation; a recent structure fabricated to look historic is not eligible. Likewise, a property whose historic features and materials have been lost and then reconstructed is usually not eligible.

Workmanship

Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. It is the evidence of artisans' labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole or to its individual components. It can be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. It can be based on common traditions or innovative period techniques.

Workmanship is important because it can furnish evidence of the technology of a craft, illustrate the aesthetic principles of a historic or prehistoric period, and reveal individual, local, regional, or national applications of both technological practices and aesthetic principles. Examples of workmanship in historic buildings include tooling, carving, painting, graining, turning, and joinery. Examples of workmanship in prehistoric contexts include Paleo-Indian clovis projectile points; Archaic period beveled adzes; Hopewellian birdstone pipes; copper earspools and worked bone pendants; and Iroquoian effigy pipes.

Feeling

Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district retaining original design, materials, workmanship, and setting will relate the feeling of agricultural life in the 19th century. A grouping of prehistoric petroglyphs, unmarred by graffiti and intrusions and located on its original isolated bluff, can evoke a sense of tribal spiritual life.

Association

Association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character. For example, a Revolutionary War battlefield whose natural and manmade elements have remained intact since the 18th century will retain its quality of association with the battle.

Because feeling and association depend on individual perceptions, their retention *alone* is never sufficient to support eligibility of a property for the National Register.

ⁱ As defined by the National Historic Preservation Act and National Register criteria, to be eligible for the National Register a property must possess the quality of significance in American history, architecture, archeology, engineering, and culture. Such properties must: A) be associated with events that have made a significant contribution to the broad patterns of our history; or B) be associated with the lives of persons significant in our past; or C) embody the distinctive characteristics of a type, period, or method of construction, or D) have yielded, or may be likely to yield, information important in prehistory or history.