

CHAPTER 2:

Park Management Options

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INTRODUCTION

The Oglala Sioux Tribe (OST) and National Park Service (NPS) are embarking upon an historic effort, which may result in establishing the country's first Tribal National Park. The past decade has been dedicated to government-to-government consultation to address the OST's interest in regaining management authority over the Tribal trust lands that now constitute the South Unit of Badlands National Park (South Unit).

The transition from Badlands National Monument to Badlands National Park in southwestern South Dakota in 1968 included the lands within the monument (North Unit) and what is now known as the South Unit. The lands that comprise the South Unit, located within the boundaries of the Pine Ridge Indian Reservation, were taken through condemnation to create the Bombing Range.

The Bombing Range, consisting of 341,725 acres, was created in 1942 and displaced 890 families in the Pine Ridge Indian Reservation. The area contained public lands, privately owned lands, Tribal lands, and Indian allotted lands.

The War Department notified the OST on July 17, 1942, that it would take possession by August 1, 1942, and bombing would start at this time. By August 27, 1942, 47 families had been removed and another 60 families remained within the Bombing Range. The original deadline was extended to October 1, 1942, to accommodate the hardship of moving the additional 60 families.

The purpose of the Bombing Range was to train servicemen for World War II. It continued to be used for training purposes until it was declared excess property in 1968. At that time Congress conveyed the excess Bombing Range lands to the OST with the stipulation that two largely undeveloped, remote tracts of lands totaling 140,000 acres (the South Unit) be held in trust and administered by the NPS as part of the legislation to redesignate Badlands National Monument to Badlands National Park (Public Law (P.L.) 90-468).

In 1975, the OST signed an easement for management of Tribal land (133,300 acres) to the NPS (Trust Deed, January 2, 1976; Easement Deed, January 2, 1976). In 1976, the Secretary of the Interior and the OST signed a Memorandum of Agreement detailing the terms of management for the conveyed lands (the South Unit) as an extension of Badlands National Park. The agreement remains, but has not proven to be an effective management framework acceptable to either the OST or the NPS.

The NPS began developing a general management plan (GMP) for the entire Badlands National Park in 2000. When discussions broke down addressing the South Unit, NPS proceeded with a GMP / Environmental Impact Statement (EIS) for the North Unit. Discussions addressing the South Unit began in 2003. Between 2006 and 2010, a planning team consisting of members of the OST and employees of the NPS has held numerous workshops to discuss the current situation and brainstorm ways for the OST to ultimately find a way to manage the South Unit. The planning team has been open and transparent in its discussions. Meetings have been held with the Oglala Sioux Parks and Recreation Authority (OSPRA), the OST Lands and Natural Resources Committee, Tribal Council and President, and NPS leadership. Three formal meetings have been held between OST representatives (including the Tribal president) and the NPS Midwest Regional Office (including the Regional Director), several briefings and meetings have been held with the NPS directorate, and one meeting was held with the Retirees Coalition. Those involved have found innumerable opportunities to discuss the management plan with friends, family, neighbors, and co-workers.

Public Law 90-468, Section 6, states that the OST may convey to the Secretary of the Interior up to 40 acres of tribally owned lands on the reservation for a facility to interpret the natural phenomena of the South Unit and the history of the Sioux Nation. This land does not necessarily

have to be within the boundaries of the South Unit.

This chapter includes a discussion of the cultural significance of the connection of the OST to the South Unit and the Preferred Management Option for a new Tribal National Park, as well

as the other management options that had been under consideration. The remainder of the South Unit GMP/EIS describes the resource and visitor experience alternatives, their impacts, and the preferred alternative for the management of the new Tribal National Park.

CULTURAL SIGNIFICANCE OF THE SOUTH UNIT TO THE OGLALA SIOUX TRIBE

The OST's connection to their homelands can be traced through oral records, which say that the Lakota people originated in the Black Hills and scattered throughout different regions in North America. By the 1660s they started to move into the Great Lakes region and by the 1700s continued into the Northern Plains and the eastern slopes of the Rockies. By the time of European contact, their home territory stretched from the western Dakotas to eastern Montana and Wyoming, with the Black Hills at the center of their territory (OST 2001). They roamed freely across this entire landscape, following the buffalo and migrating with the seasons. The Lakota people spent their lives hunting and gathering on the prairie and developed a unique and sophisticated culture based on the principle of living in harmony with nature and the environment.

Lakota Itacan (leader) Red Cloud was instrumental in negotiating the Fort Laramie Treaty of 1868, which created the expansive Great Sioux Reservation (see the map showing Fort Laramie Treaty Territories of 1868). The Black Hills, or Paha Sapa, are located in the center of this vast territory. This treaty established the legal boundaries of land "set apart for the absolute and undisturbed use and occupation" of the Lakota people (15 Stat. 635). While this treaty was entered into in good faith by the Lakota, gold was soon found in the Black Hills inside the reservation. The United States allowed miners to trespass on Lakota land. With each new treaty, the indigenous peoples lost more and more land until finally in 1889 the Great Sioux Reservation was reduced to five separate reservations, including the Pine Ridge Indian Reservation (approximately 2.7 million acres of prairie and badlands).

By signing treaties with the Lakota, the United States recognized the Tribe as a sovereign government with the right to self-determination. The *Indian Reorganization Act* of 1934 allowed all tribes to adopt constitutions and develop Tribal

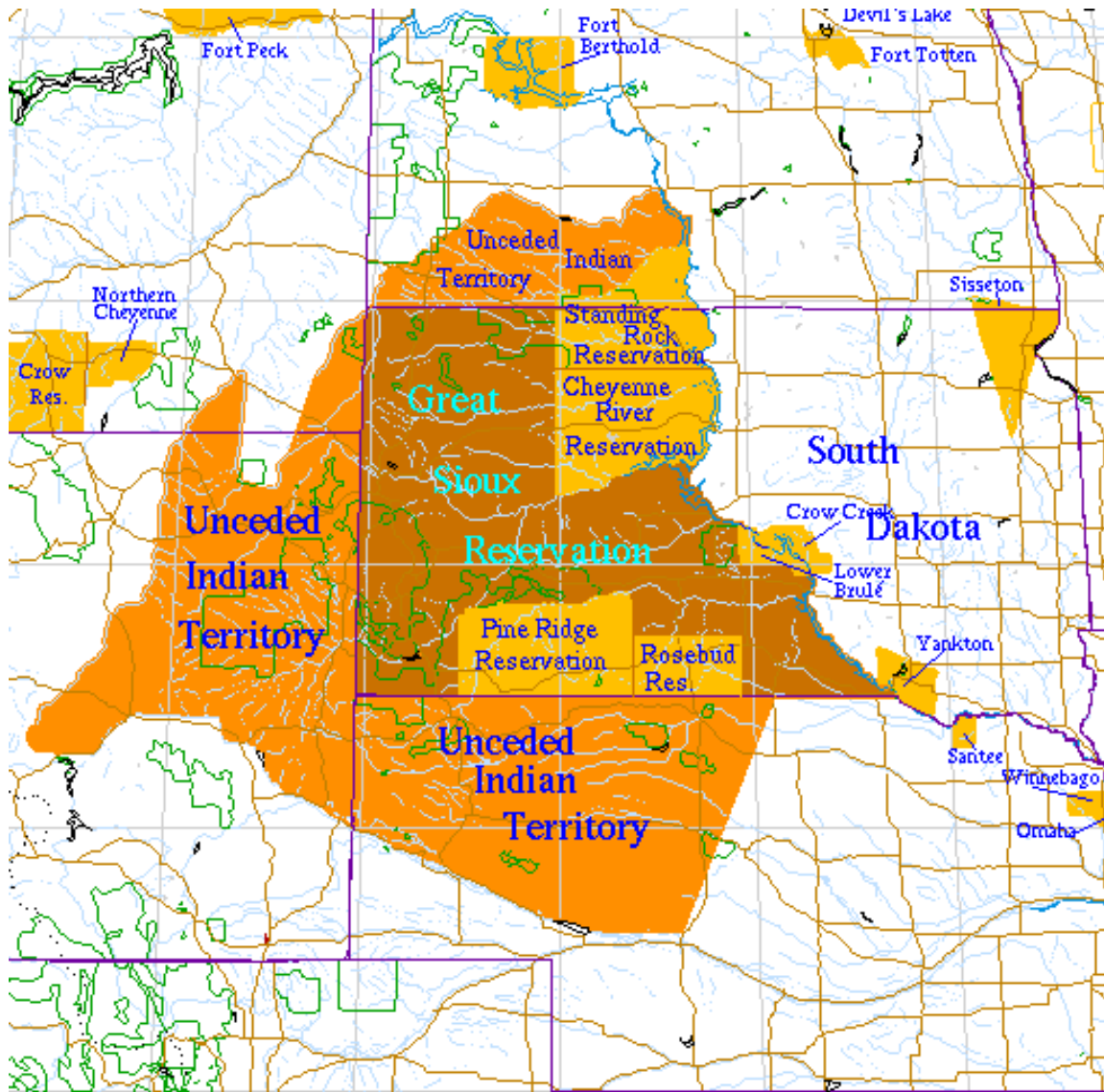
Councils. It is important to understand that the OST is a construct of the U.S. government. The OST is part of the Greater Sioux Nation, also called the Lakota/Dakota/Nakota Nation. The Lakota Nation includes the Oglala, Brule, Hunkpapa, Blackfoot, Minneconjou, No Bows, and Two Kettle. The Lakota speak the "L" dialect of the Siouan language. The Oglala are part of the Tetonwan division, "dwellers on the plains," occupying the western regions of Sioux territory.

In 1887, Congress passed the *Dawes Act*, also known as the *General Allotment Act*, which subdivided the reservations into 160-acre lots and distributed them to Tribal members. The remaining Tribal lands were purchased by the U.S. government at a minimum price and opened up to white settlement.

The *General Allotment Act* began an era of attempted assimilation of Indian Tribes across the United States. The law was designed not only to break up large Indian land holdings and increase Anglo settlement, but to dismantle Indian culture and traditions. The government's policy of assimilation had a tremendous adverse impact on all tribes. Children were sent to government boarding schools and completely stripped of their culture. Federal law prohibited American Indians from practicing their religion or speaking their native language. Entire generations lost knowledge of their cultural and spiritual ways.

In Pine Ridge the first allotments were made in 1904 and the first allotment schedule was approved in 1906. In all, 8,274 allotments were made to Indians on the Pine Ridge Indian Reservation, comprising over 2 million acres, which includes land in the South Unit.

On behalf of Itacan Red Cloud, Big Road and Kicking Bear were sent to ask Itacan Big Foot to come to the Red Cloud Agency and negotiate a truce with the Seventh Cavalry of the U.S. Army. En route, Big Foot's band of Hunkpapa and Minneconjou Sioux, which included elderly, women, and children, was disarmed and slaughtered by the Seventh Cavalry in the 1890 Wounded Knee Massacre.



FORT LARAMIE TREATY TERRITORIES OF 1868

Sources: Crystal Links 2003; OST 2001; National Wildlife Federation 2001

PREFERRED MANAGEMENT OPTION AND OTHER CONSIDERED MANAGEMENT OPTIONS

In response to a need to increase the involvement of Tribe members in decision making for the South Unit, the NPS and the OST, within this planning process, developed concepts for structuring the management of the South Unit. Between March and May 2007, the planning team discussed a range of seven options for managing the South Unit. The seven options included four options that have been carried throughout the process (no action, shared management, NPS-affiliated area, and deauthorization) and one option that became the Preferred Management Option, Tribal National Park. Two of the seven options discussed were brought to the table by members of the Tribe's Oyate group. In reviewing these options, the team agreed that three of the options would fit within the four described above.

In the spring of 2008, Newsletter #1—describing the planning process and the management options—was published and widely distributed, followed by 15 public open houses. By July 2008, after analyzing the hundreds of public comments, the team added to, deleted, and refined the options, leaving six management options for further consideration by the planning team, the OST, and the NPS. As of January 2009, the management options had been reduced to five: no action, shared management, a Tribal National Park affiliated with the NPS, deauthorization, and a Tribal National Park not affiliated with the NPS. Further refinements between August 2009 and January 2010 resulted in the seven management options discussed in this document and the selection of the management option that the NPS and the OST will move forward in a joint legislative proposal.

In discussing how these management options would be treated in the South Unit GMP/EIS, the planning team concluded that the decision on the management option should be determined through consultation between the NPS and the OST government. It became clear from discussions with Tribal officials and members and from public comments on the first

newsletter that the final disposition of the South Unit would not be a simple decision. Sentiments ranged from turning the management of the land back to the OST to continuing current management.

The proposed Preferred Management Option is supported by the planning team, the Badlands Superintendent, the Midwest Regional Director, the NPS Director, OSPRA, and the OST Tribal Council and President. Because any change to the status of the South Unit requires Congressional input, this Preferred Management Option will be presented to Congress for action, accompanied by any required analysis of the impacts to the human environment associated with the management options discussed here.

OPTION 1: CONTINUE CURRENT MANAGEMENT

Option 1, Continue Current Management, assumes that the NPS would continue to manage the South Unit as at present. The NPS would continue to be responsible for the overall administration of the South Unit and the day-to-day on-site activities, providing two full-time positions. Existing operations and visitor facilities would remain in place, concentrated at White River, and the White River Visitor Center would continue to be the principal visitor contact area in the South Unit until the LHEC is built. The NPS and OST would share responsibility for operation of the White River Visitor Center, with the NPS primarily responsible for maintaining the visitor center and providing training and development of interpretive volunteers and staff. The OSPRA would be responsible for staffing the White River Visitor Center. Jointly, the NPS and OSPRA would continue to develop exhibits and provided visitor programming in the summer months.

Under the *1976 Memorandum of Agreement* currently in effect, 50 percent of the entrance fees collected at the park entrance gates in the North Unit would continue to be collected on

behalf of the OST and directed to OSPRA for expenditures in the South Unit. NPS employees would continue to report to the superintendent of Badlands National Park. Tribal employees who staff the White River Visitor Center would continue to be Tribal employees responsible to the Executive Director of OSPRA.

Resources would continue to be managed by the OST to perpetuate and protect the natural environment and preserve cultural resources, following the federal laws, regulations, and policies that govern units of the national park system. Hunting would still be permitted for Tribal members only, as regulated by the OST. The NPS would be responsible for implementation of the South Unit GMP/EIS.

OPTION 2 (THE PREFERRED MANAGEMENT OPTION): TRIBAL NATIONAL PARK

Under the Preferred Management Option, Congress would designate the South Unit as the first “tribal national park.” Federal law applicable generally to units of the National Park System, including the NPS *Organic Act* and federal environmental and historic preservation laws like the *Endangered Species Act*, the *National Environmental Policy Act* of 1969 (NEPA), and the *National Historic Preservation Act* of 1966 (NHPA), would continue to apply to the park and would apply to the actions of the OST in managing the park. In cases where tribal law is inconsistent with, or conflicts with, federal law, federal law would control, except where the legislation establishing the new park expressly provides otherwise. The NPS envisions that mechanisms or processes would be in place to allow for citizen involvement in park management decisions and for legal recourse for alleged violations of applicable law.

This option would ensure that the Oglala Lakota people manage, own, and operate their lands for the educational and recreational benefit of the general public, including both Tribal and nontribal visitors and residents. Once construction of the Lakota Heritage and Education Center is complete, it would be the primary visitor contact area for the park and an important component of the visitor experience.

Until the Lakota Heritage and Education Center is operating, the White River Complex would be the primary visitor contact area for the park. The OST would be responsible for training and development of staff and volunteers with technical assistance from the NPS, if requested.

A new agreement would be established between the OST and the NPS to clarify the administrative and procedural details necessary for the full transition of park management from direct NPS oversight to the OST. Upon execution of the new agreement, the 1976 *Memorandum of Agreement* would be replaced. The new agreement would contain a staffing plan, organizational plan, and business plan prepared by the OST with the assistance of the NPS. When completed, the agreement would be submitted to the OSPRA board, the OST Council and President, and the Regional Director of the Midwest Region for concurrence, before routing to the NPS Director for approval by the Secretary of the Interior.

The NPS, generally, has the responsibility to work closely with the management entity to prepare a GMP for areas closely associated with the NPS. In this case, the final GMP/EIS being developed in this planning process would be adopted by the OST, thus fulfilling the NPS responsibility to prepare a long-term plan for the area in consultation with the site’s managers.

The Tribal National Park would be identified by signs featuring the OST logo and the NPS arrowhead. The park would be funded by federal appropriations and entrance fees. The Tribal National Park would receive an annual funding appropriation from Congress to manage and operate the park and would also be allowed to compete for monies and technical assistance within the established NPS allocation process. Technical assistance could include interpretation, resource protection, and development of the Lakota Heritage and

Education Center. Additionally, the Tribal National Park would be authorized to implement an entrance fee with the provision that those funds would be used for park operations.

At the start of the transition, experienced NPS employees would staff administrative and resource positions, mentoring Tribal members in managerial and other skills through on-the-job and in-service training and other professional developmental programs. As the Tribal members develop the necessary skills, they would step into the positions previously held by NPS employees and assume responsibilities for park operation. Tribal members would receive on-the-job training, would have access to NPS servicewide training as well as relevant training opportunities outside the NPS, and would have opportunities to take relevant training and coursework outside the NPS at local or regional institutions of higher education, funded by the NPS. Ultimately, staff of the Tribal National Park would be OST members. As soon as practicable, the park would be wholly under Tribal management.

Resources would be managed to perpetuate and protect the natural environment and to preserve cultural and historic resources and values, following the ordinances and resolutions established by the OST and the laws, regulations, and policies pertaining to units of the National Park System. Hunting would be permitted for Tribal members only as regulated by the OST. The OST would be responsible for implementation of the South Unit GMP/EIS.

Under the Preferred Management Option, federal environmental and historic preservation laws (such as NEPA and NHPA) would remain in force. The NPS envisions mechanisms would be in place (a partial waiver of sovereignty from OST) to allow for citizen involvement and legal recourse pertaining to these laws. Federal law would take precedence in all cases where there is a conflict between tribal law, ordinance, or resolution and federal law, and legislation would be written to specify the exceptions where tribal law would prevail and specify a method to address changing conditions and new issues as they arise.

The Preferred Management Option would require Congressional action to reestablish the South Unit as the first Tribal National Park, managed by the OST as a separate and new unit of the National Park System.

OPTION 3: SHARED MANAGEMENT

Under option 3, the NPS and the OST would share responsibility for the day-to-day on-site management of the South Unit within Badlands National Park. Associated visitor activities would be managed jointly under terms and conditions of a new agreement. The Tribe would assume more direct control over the operation and management of the South Unit than currently. Existing operations and visitor facilities would remain concentrated at White River, and the White River Visitor Center would continue to be the principal visitor contact area in the South Unit until the LHEC is built. The NPS and the OST would share responsibility for managing the visitor center and for training and development of staff and volunteers. In order to facilitate a strong partnership, the NPS would provide training and funding to the OST to assume tasks and positions necessary for shared management of the South Unit. NPS employees would work side-by-side with OST employees.

A new agreement would be negotiated and the *1976 Memorandum of Agreement* would be replaced. The new agreement would determine how expenses in the South Unit would be funded. In order to bring greater attention to the resources and opportunities at the South Unit, additional park signs would be placed along the major roads (I-90; US 385; SD 73, 44, and 79; and BIA Route 2) to direct visitors into the South Unit. NPS employees would report to the superintendent of Badlands National Park. Tribal employees staffing the White River Visitor Center would be Tribal employees responsible to the manager of the South Unit. The Superintendent of Badlands National Park and the South Unit manager would both report to the NPS.

Resources would be managed to perpetuate and protect the natural environment and preserve cultural resources, following the laws governing activities of the NPS and ordinances and

regulations established by the OST. Hunting would still be permitted for Tribal members only, as regulated by the OST. The NPS and the OST would be responsible for implementation of the South Unit GMP/EIS.

OPTION 4: AFFILIATED AREA

To show the track of the administrative history, option 4 has been included, even though it is similar to the preferred option. In option 4, the South Unit would be managed solely by the OST as an affiliated area of the national park system. The OST would be responsible for the administration and the day-to-day on-site operations. Existing operations and visitor facilities would remain in place, concentrated at White River, and the White River Visitor Center would continue to be the principal visitor contact area in the South Unit. Until the LHEC is built, the OST would be responsible for operation of the visitor facilities and services. The NPS would provide technical expertise and policy guidance as requested. Interpretive activities and visitor education would be directed by the OST, with technical assistance from the NPS, as requested. Technical assistance could include design and content of brochures, exhibits, and interpretive programs.

Affiliated areas are neither federally owned nor directly administered by the NPS, but are recognized as closely related to the collection of nationally significant resources managed by the NPS and administered by a qualified organization in a manner consistent with all laws and policies generally applicable to units of the national park system. Affiliated areas are identified by signs featuring the NPS arrowhead. Affiliated areas have the opportunity to request technical assistance and/or funding for specific projects; however, assistance is typically not guaranteed.

At the reestablishment of the South Unit as an affiliated area—separate from Badlands National Park—the *1976 Memorandum of Agreement* would be replaced, resulting in loss of entrance fee revenue. The OST, as the managing entity, would be required to find and develop its own funding sources for operation of the South Unit Affiliated Area, and could choose to implement an entrance fee for access and use of the Affiliated Area. Staff of the affiliated area would be employed by the OST. The OST, working in conjunction with other state and federal agencies, could place signs along the major roads (I-90; US 385; SD 73, 44, and 79; and BIA Route 2) to direct visitors into the Affiliated Area.

Resources would be managed to perpetuate and protect the natural environment and preserve cultural resources, following the ordinances and regulations established by the OST and the laws and policies pertaining to units of the national park system. Hunting would be permitted, as regulated by the OST. The OST would be responsible for implementation of the South Unit GMP/EIS.

Option 4 would require Congressional action to reestablish the South Unit as an affiliated area of the national park system.

OPTION 5: NEW NATIONAL PARK

To show the track of the administrative history, option 5 has been included even though it is similar to the preferred option.

Under option 5, Congress would reestablish the South Unit as a distinct national park, a distinct new unit of the national park system, managed by the OST under the administration of the NPS. The unit would be managed in a way consistent with the laws and policies of the NPS and guided by the Tribal laws and resolutions of the OST. The OST would be responsible for the administration and the day-to-day on-site operations. The OST would be responsible for operation of the visitor facilities and services. The LHEC would be the primary visitor contact area for the park and an important component of visitor experience. The OST would be responsible for training and development of staff

and volunteers. Technical assistance from the NPS would be available if requested, as funding permits.

A new agreement would be established between the OST and the NPS to clarify administrative and procedural details necessary for the management of the distinct national park as a unit of the national park system. The agreement would also contain a park staffing plan, organizational plan, and business plan that would be prepared by the OST in close coordination with the NPS. When completed, the agreement would be submitted to both the OST Tribal Council and the Regional Director of the Midwest Region for concurrence before routing to the NPS Director for approval.

The national park would be identified by signs featuring the OST symbol and the NPS arrowhead. There would be signs along the major roads (I-90; US 385; SD 73, 44, and 79; and BIA Route 2) to direct visitors into the Tribal Park. The national park would no longer receive a percentage of the entrance fee gate receipts collected in the North Unit of Badlands National Park, but would have a separate entrance fee for the national park. This revenue, along with a separate annual funding appropriation from Congress, would be used to manage and operate the national park. In addition, the national park could compete for funds and technical assistance within the established NPS fund and technical assistance allocation process.

The site superintendent/manager, who would report to the Midwest Regional Director, would be selected by the OST and would be responsible for both the administration and the day-to-day on-site activities at the national park. The Tribal national park manager would be responsible for management of the park consistent with the terms and conditions of the agreement.

Resources would be managed to perpetuate and protect the natural environment and preserve cultural resources, following the ordinances and regulations established by the OST and the policies pertaining to units of the national park system. Hunting would be permitted for Tribal members only, as regulated by the OST. The

OST and the NPS would be responsible for implementation of the South Unit GMP/EIS.

Option 5 would require Congressional action to reestablish the South Unit as a distinct Tribal National Park managed by the OST under the administration of the NPS.

OPTION 6: DEAUTHORIZATION

In option 6, the South Unit would be deauthorized by Congress, and the management of the land returned to the OST. The former site would be managed in whatever manner the OST selected, and the OST would be responsible for all costs associated with the management and operation of the former South Unit. The *1976 Memorandum of Agreement* would be replaced and funding assistance from the NPS would cease. Funding would be the responsibility of the OST. The South Unit would no longer be a component of the national park system. The effect on the LHEC project is unclear.

Option 6 would require Congressional action to deauthorize the South Unit.

OPTION 7: OGLALA SIOUX TRIBAL PARK

Option 7 provides for the eventual deauthorization of the South Unit and return of its management to the OST as a Tribal Park. In this option, the NPS would provide increased training and education of OST members over an established period of time, with the ultimate goal of having the OST manage the unit as a Tribal Park. In order to provide for the training and development of future Tribal Park employees, the OST and/or the NPS could establish programs with local and regional colleges, as well as local high schools, to allow OST members to be educated and trained in all aspects of resource management. This option would also allow OST members access to NPS training programs.

The implementation of this option would begin with the execution of an agreement, reviewable on an annual basis, between the NPS and the OST that establishes clear decisions and achievable benchmarks for each party in terms

of training and educational opportunities and practical experience in park management. As benchmarks are achieved, additional management responsibility would shift to the Tribe as site manager. Opportunities for funding would come from the OST and the NPS working in concert. The agreement document would provide for preferential hiring of enrolled Tribal

members. The effect on the LHEC project is unclear.

Option 7 would require Congressional action to deauthorize the South Unit as a part of Badlands National Park.