

**PROGRAMMATIC AGREEMENT AMONG THE
VIRGINIA STATE HISTORIC PRESERVATION OFFICE,
PAMUNKEY INDIAN TRIBE, CHICKAHOMINY INDIAN TRIBE,
AND
THE NATIONAL PARK SERVICE
TO COMPLETE
PHASE II OF THE REHABILITATE SEAWALLS AND SHORE PROTECTION/
BLUFF STABILIZATION PROJECT AT CITY POINT, AT THE GRANTS
HEADQUARTERS UNIT
OF PETERSBURG NATIONAL BATTLEFIELD
IN HOPEWELL, VIRGINIA**

WHEREAS, Petersburg National Battlefield (Park) is a unit of the National Park Service (NPS) and is charged to meet the directives of the NPS Organic Act of 1916 (P.L. 64-235, 29 Stat. 535) to “conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations”, as it applies to the Petersburg National Battlefield; and

WHEREAS, the NPS complies with Section 106 of the National Historic Preservation Act (NHPA) according to the Advisory Council on Historic Preservation (ACHP) regulations (36 CFR Part 800), and the 2008 [Programmatic Agreement Among the National Park Service \(U.S. Department of the Interior\), Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the National Historic Preservation Act \(2008 PA\)](#); and

WHEREAS, the purpose of the 2008 PA is to establish a program for compliance with the Section 106 of the NHPA and set forth a streamlined process when agreed upon criteria are met and procedures are followed; and

WHEREAS, the 2008 PA encourages the development of subsequent agreements (Stipulation IX Subsequent Agreements) to further guide Section 106 compliance for a specific park project or undertaking; and

WHEREAS, the purpose of this programmatic agreement is to guide the Section 106 process for Phase II of the Bluff Stabilization Project as described below as the Undertaking and resolve adverse effects that may arise from this Undertaking;

WHEREAS, the NPS performed work in 2007 to stabilize a portion of the bluff at the Grant’s Headquarters Unit at Petersburg National Battlefield and Section 106 for this work was covered under the *Programmatic Agreement Among the Virginia State Historic Preservation Office, United States Army Corps of Engineers, and the National Park Service to Provide Recovery from Damages Sustained by Hurricane Isabel (Bluff & Shoreline Stabilization at City Point Unit) and Conduct Data Recovery for Early Colonial Earthfast Structure and Rehabilitate Wharf Area to*

Control Erosion, Reduce Hazards & Prevent Loss of Resources (May 2006) and this agreement has since expired; and

WHEREAS, the NPS proposes to complete Phase II of the Bluff Stabilization Project (Undertaking) at the Grant's Headquarters Unit at Petersburg National Battlefield to stabilize the shoreline and bluff at City Point which is at extreme risk of losing irreplaceable archeological, architectural, cultural, and natural resources due to erosion from the Appomattox and James Rivers and the current understanding of what these activities may entail are detailed in Appendix B; and

WHEREAS, NPS, in consultation with the Department of Historic Resources (DHR) that serves as Virginia's State Historic Preservation Office (SHPO), has defined the undertaking's area of potential effects (APE) as the entirety of the boundary of the Grant's Headquarters Unit and approximately a 0.3 mile buffer from the shoreline into the James and Appomattox Rivers (attachment A); and

WHEREAS, NPS, in consultation with the SHPO, has determined pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), that the undertaking may have an adverse effect on the setting of the National Register-listed Appomattox Manor (69000015/116-0001) and the City Point Historic District (City Point) (79000248/116-0006) (also listed in the Virginia Landmarks Register) and specifically on the Grant's Headquarters (City Point) Unit of Petersburg National Battlefield, which contains nationally significant historic structures, cultural landscapes and archeological resources deposited by prehistoric Woodland period Native Americans, 17th and 18th century Anglo American colonists and enslaved African Americans, 19th century Anglo American Plantation owners and enslavers and their African American enslaved, and the Union Army's headquarters for the Civil War-era Siege of Petersburg; and

WHEREAS, the NPS has made a reasonable and good faith effort to identify federally recognized American Indian tribes that may consider historic properties with PETE to have religious and cultural importance and have invited Pamunkey Indian Tribe, Catawba Indian Nation, Chickahominy Indian Tribe, Chickahominy Indian Tribe Eastern Division, and Citizens of the Potawatomi Nation to participate in consultation towards this PA; and

WHEREAS, the Pamunkey Indian Tribe and the Chickahominy Indian Tribe, for which the Grant's Headquarters (City Point) Unit of Petersburg National Battlefield has religious and cultural significance, have requested to be signatories to this PA; and

WHEREAS, the Park has consulted with the City of Hopewell regarding the effects of the undertaking; and

WHEREAS, the NPS has notified the Advisory Council on Historic Preservation (ACHP) of the potential adverse effect pursuant to 36 CFR 800.6(a)(1) and 36 CFR Part 800.14(b)(3) and has invited the ACHP to participate in consultation and the ACHP has declined to participate.

NOW, THEREFORE, NPS and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to consider the effect of the undertaking on historic properties.

STIPULATIONS

The NPS shall ensure that the following measures are carried out.

I. PROGRAMMATIC AGREEMENT SCOPE & STANDARDS

- A. This PA covers all actions related to Phase II of the stabilization of the bluff at the Grant's Headquarters Unit of Petersburg National Battlefield in Hopewell, Virginia.
- B. NPS shall ensure that the stabilization of the bluff is implemented in consultation with the signatories of the PA, and that the stabilization shall adhere by the [Secretary of the Interior's \(SOI\) Standards for Archaeology and Historic Preservation](#) with emphasis on the [SOI's Standards for the Treatment of Historic Properties](#) (36 CFR 68).
- C. NPS shall ensure that the archeology is implemented in consultation with the signatories of the PA, and that the archeology shall adhere to the Secretary of the Interior's (SOI) Standards for Archaeology and Historic Preservation; http://www.nps.gov/history/local-law/arch_stnds_9.htm) with emphasis on the SOI's Standards for the Treatment of Historic Properties.
 1. All work shall consider the appropriate guidelines:
 - a. [Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines](#)
 - b. DHR's [Guidelines for Conducting Historic Resources Surveys in Virginia \(2017\)](#)

II. CONSULTATION METHODS

The NPS shall consult with the SHPO and other consulting parties that have expressed interest in participating in carrying out the terms of this Agreement. Such consultation may include but not be limited to:

- Written Correspondence
- Conference
- Calls/Virtual Meetings

- Face-to-Face Meetings
- Field Visits

III. CONSULTATION PROCESS

- A. Consistent with the provisions of the 2008 PA, the NPS shall use the Section 106 standard review process to consult with the SHPO, tribal nations and consulting parties on the scope and design of the overall project. Prior to consultation, the NPS will conduct internal review by the park's designated Cultural Resource Management Team (CRM Team) of qualified professionals meeting the qualifications set forth in NPS 28: Cultural Resource Management Guidelines (Appendix E) or the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (as applicable) in the fields of museum collections, archeology, history, historic landscape architecture, and historic architecture.
- B. Standard Review process: the NPS will make use of the standard review process and consult with the SHPO and other consulting parties on the overall scope of the project and schematic and draft construction plans as they are developed. All parties will be provided with design drawings and specifications for a 30-day review period. As needed, follow up onsite or virtual consultations to further discuss the plans will be arranged.
- C. Streamlined Review Process: individual actions in support or related to the overall project that meet the criteria for streamlined review (Stipulations III.C of the 2008 PA) will be reviewed internally by the park CRM Team to ensure potential effects have been avoided or minimized and do not result in an adverse effect to historic properties. While these actions will not require SHPO review, the tribal nations did not sign the 2008 PA and the Pamunkey Indian Tribe and the Chickahominy Indian Tribe will be afforded 30-day review periods for these actions.
- D. During the design stage, if NPS determines that the proposed shoreline stabilization may alter qualities that make a contributing structure, archeological site, landscape, or landscape feature significant, NPS will prepare design alternatives and/or landscape or archeological treatment plans to avoid, minimize or mitigate the Project's adverse effects for submission to the SHPO and other consulting parties that have expressed interest in participating in carrying out the terms of this Agreement for review and comment prior to implementation.
- E. Consulting parties have the option to participate in workshops or other presentations as described in stipulation III.B which may, in specifically agreed upon instances, be substituted for formal written consultation in order to resolve specific design issues quickly.

IV. REVIEW REQUIREMENTS

- A. For all activities directed toward the identification of historic properties, the NPS will provide the SHPO and other consulting parties with scopes of work and draft reports for their 30-day review and comment, and final documents that consider the comments received.
- B. At a minimum, the Park shall submit Schematic Design (30%) and Draft Construction (90%) packages for the SHPO and other signatories of this PA for review and comment with a 30-day response time. This includes all required plans, such as detailed construction plans for various types of stabilization structures proposed for the different reaches, site furnishing and new accessible walks. The plans will include staging areas, all ground disturbing activity, including tree and vegetation removal and use of trails and roadways. The NPS will provide documentation on how comments were considered during the next phase of review.
- C. All final drawings will be provided to the SHPO and other consulting parties prior to the commencement of construction.

V. TREATMENT OF HISTORIC LANDSCAPES

NPS is working on a Historic Property Project Documentation Overview (HPPD) to document character-defining features in the landscape that may be impacted by the undertaking and outline desired conditions for when the work is complete. This work will take place during the winter and spring of 2025. The document will be shared with signatories for comment. NPS will ensure that the design and features of the proposed actions are compatible with the cultural landscape and landscape features, including historic structures, of City Point and is consistent with the recommended approaches to preserving its historic setting set forth in the HPPD Overview.

VI. TREATMENT OF ARCHEOLOGY

- A. The NPS shall conduct archeological investigations for the identification of terrestrial and submerged archeological sites in areas to be disturbed by the undertaking prior to construction.
 - 1. Phase I shovel test pit surveys in unevaluated areas of the APE. Geophysical survey of the entire site, with the exclusion of the slopes and shorelines.
- B. Prior to affecting any potentially eligible archeological site, the NPS shall develop a testing program of sufficient intensity to provide an evaluation of eligibility for the National Register in consultation with SHPO and other consulting parties, following the regulations outlined in 36 CFR Part 800.4(c).

1. If as a result of the testing program, additional archeological sites are identified that are eligible for the National Register of Historic Places, the NPS shall develop a plan for their avoidance, protection, or recovery of information in consultation with the SHPO and other consulting parties. The plan shall be submitted to the SHPO and other consulting parties for review and approval prior to implementation.

C. Data Recovery

1. All data recovery plans prepared under the terms of this Agreement shall include the following elements:
 - a. Information on the archeological property or properties where data recovery is to be carried out, and the context in which such properties are eligible for the National Register;
 - b. Information on any property, properties, or portions of properties that will be destroyed without data recovery;
 - c. Discussion of the research questions to be addressed through the data recovery with an explanation/ justification of their relevance and importance;
 - d. Description of the recovery methods to be used, with an explanation of their pertinence to the research questions;
 - e. Information on arrangements for any regular progress reports or meetings to keep the SHPO and other consulting parties up to date on the course of the work. The plan should contain the expected timetable for excavation, analysis and preparation of the final report.

D. Signatories will have two weeks to review the plan and provide comments. The plan shall substantially resemble the agreed upon scope.

E. Once testing is completed, NPS shall ensure that draft and final reports are developed and distributed in accordance with Stipulation IV.A and VI.H.2 of this agreement.

F. The NPS will ensure that particular care is taken during construction to avoid affecting any archeological remains that are associated with City Point Bluff. A plan for archeological monitoring will be made in consultation with the SHPO and other consulting parties prior to construction in this area.

1. Construction work will be restricted, and sensitive areas will be marked by erection of temporary fence/flagging and construction monitoring. Construction staging areas will be determined ahead of time and clearly marked and discussed by the NPS with the construction contractor. The location and design of staging

areas will be evaluated for their effect on significant archeological and other cultural resources through the consultation process described in Stipulation III above.

2. If a previously unidentified archeological resource is discovered during ground disturbing activities, the NPS shall immediately notify SHPO and other consulting parties. All construction work involving subsurface disturbance will be halted in the area of the resource and in the surrounding area where further subsurface resources can reasonably be expected to occur. The NPS and the SHPO and other consulting parties, or an archeologist approved by them, immediately will inspect the work site and determine the area and the nature of the affected archeological property. Construction work may then continue in the project area outside the site area. Within two working days of the original notification of discovery, the NPS in consultation with the SHPO and other consulting parties will determine the National Register eligibility and treatment of the resource.
3. Work in the affected area shall not proceed until either:
 - a. The development or implementation of appropriate data recovery or other recommended mitigation procedures, or
 - b. The determination is made that the archeological resources are not eligible for inclusion on the National Register.

G. Human Remains

1. In the event of the discovery or excavation of human remains, NPS will notify SHPO and consulting parties within 48 hours of the discovery and determine if the remains are potentially subject to the Native American Graves Protection and Repatriation Act (NAGPRA). In addition, the lead archeologist will immediately notify the Richmond Office of the Chief Medical Examiner (OCME) and notify the PETE Superintendent.
 - a. The email notification of discovery should include:
 - i. A narrative from the person who discovered the human remains and/or associated cultural items.
 - ii. A description of when and where the osteological determination will take place, who will conduct the determination, and any key information about storage or transportation of human remains and/or cultural items.
2. If the remains are determined not to be Native American, NPS will work with SHPO to carry out appropriate actions to protect the remains in place, or, if necessary, remove the human remains in a respectful manner in accordance with

the [Advisory Council on Historic Preservation Policy Statement on Burial Sites, Human Remains, and Funerary Objects](#) dated March 1, 2023.

3. If the remains are Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony, NPS responsibilities under NAGPRA supersede the above process and will be performed as described in the Plan of Action in Appendix C.

H. Reporting

1. Documentation. The NPS shall produce summary reports, draft reports, and final reports for SHPO and consulting party review. Final reports shall take into account comments received on draft reports. A comment matrix showing how these comments were taken into account shall accompany the final report. Reports shall be produced for each phase of archeology, including monitoring, regardless of whether resources are encountered or not.
2. Review of Documentation. The NPS shall submit to the SHPO one comb-bound hardcopy and one digital copy in .PDF of all draft technical reports and one copy in the format of their choosing to each consulting party for review and comment. The NPS shall ensure that all comments received within thirty (30) days of the comment period shall be addressed in the final technical reports. One comb-bound hardcopy and one digital copy in .PDF of all final technical reports on acid free paper shall be provided to the SHPO and, upon request, one copy on regular paper to each consulting party.
3. Reporting Standard. All archeological studies, resulting from this Agreement, including data recovery plan(s), shall be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 4434-37)*, the Director's Order 28, Technical Guidelines, and the DHR's Guidelines for Conducting Historic Resources Surveys in Virginia (2017) , and shall take into account the Council's publications, [Section 106 Archeology Guidance \(2009\)](#).

F. Curation

Curation of all archeological materials and appropriate field and research notes, maps, drawings and photographic records collected as part of this Agreement (with the exception of human skeletal remains and associated funerary objects) will be cared for in accordance with the NPS *Museum Handbook* and with the requirements of 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* and the *National Park Service Museum Handbook*.

VII. RESOLUTION OF ADVERSE EFFECTS

The Park will work to resolve the adverse effects of this project in the following ways.

A. Minimization

1. During the design process, the Park will take into account comments from signatories in order to minimize or, if possible, avoid effects on specific historic properties and explore feasible alternatives that meet the purpose and need of the project, are likely to be successful, and have a strong probability of being able to be implemented.
 - a. Alternatives proposed late in the review process may not be deemed feasible for technical, financial, or logistical reasons.
 - b. The Park will provide an explanation to all signatories on what changes were explored and how accepted changes are expected to minimize effects.

B. Mitigation

If minimization of effects is not possible, mitigation may be developed. The Park will develop a mitigation plan in writing that outlines its commitment to implementing agreed upon mitigation and the time frame in which it will be completed and distribute it to all signatories to this PA.

Mitigation may include, but will not necessarily include:

1. Data recovery of archeological resources following the terms laid out in Stipulation VI.B.
2. Mitigation in design features, treatments, and configuration.
3. Other agreed upon mitigation that would be in the public interest, advance knowledge of the past resources of City Point and/or lead to the preservation or maintenance of other historic properties at City Point.

VIII. DISPUTE RESOLUTION

Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the Park shall consult with such party to resolve the objection. If the Park determines that such objection cannot be resolved, the Park will:

- A. Forward all documentation relevant to the dispute, including the Park's proposed resolution, to the ACHP. The ACHP shall provide the Park with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation.

Prior to reaching a final decision on the dispute, the Park shall prepare a written response that takes into account any timely advice or comments regarding the dispute

from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Park will then proceed according to its final decision.

- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) daytime period, the Park may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Park prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA and provide them and the ACHP with a copy of such written response.
- C. The Park's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

If the ACHP does not provide its advice regarding the dispute within the thirty (30) day response period, the Park may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Park shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the PA and provide them and the ACHP with a copy of such written response.

The Park 's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

IX. AMENDMENTS

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. TERMINATION

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation IX, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

Once the PA is terminated, and prior to work continuing on the undertaking, the Park must either (a) execute a PA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Park shall notify the signatories as to the course of action it will pursue.

XI. DURATION OF AGREEMENT

This PA will expire if its terms are not carried out within 10 years from the date of its execution. Prior to such time, the Park may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulations IX.

Execution of this PA by the Park and SHPO and implementation of its terms evidence that NPS has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Signatories

NATIONAL PARK SERVICE

By: _____ Date: _____

Alexa Viets, Superintendent
Petersburg National Battlefield

VIRGINIA STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____

Julie V. Langan, Director
Department of Historic Resources and
Virginia State Historic Preservation Officer

CHICKAHOMINY INDIAN TRIBE

By: _____ Date: _____

Stephen Adkins
Chickahominy Indian Tribe

PAMUNKEY INDIAN TRIBE

By:

Date:

Chief Kevin Brown

Pamunkey Indian Tribe

APPENDIX A: Bluff Stabilization Phase II APE



APPENDIX B: Bluff Stabilization Phase II Undertaking

The work described below reflects concept design level information and may change as the design process moves forward. This snapshot reflects the best information that NPS currently has on desired conditions for this project. Work may include:

- Augmentation of approximately 945 linear feet of riprap revetment to +9 mean low water (MLW)
- Elevation of approximately 485 linear feet elevated from +3 MLW to +9 MLW
- Elevation of approximately 460 linear feet from +5 MLW to +9 MLW
- Construction of approximately 900 linear feet of riprap revetment to +9 MLW
- Construction of approximately 1,300 linear feet of 12ft high prefabricated concrete retaining wall
- Clearing and grubbing of all slopes – 3.5 acres
- Establishment of approximately 3.5 acres of 2:1 slope to create the appropriate angle of repose
- Structural backfilling in the areas between the rehabilitated retaining wall and bluff
- Installation of approximately 200 linear feet of new sheet pile bulkhead
- Construction of approximately 250 linear feet riprap breakwater
- 3,525 linear feet of turbidity and erosion control
- Demolition of an un-serviceable access road
- Select revegetation
- Approximately 1,000 linear feet of road work
- Approximately 1,620 linear feet of new accessible walks
- Miscellaneous furnishings / site improvements

APPENDIX C: NAGPRA Plan of Action

Procedure for Treatment of Inadvertently Discovered Native American Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony

This Plan of Action describes the procedures for the treatment and disposition of Native American human skeletal remains, associated funerary objects, objects of cultural patrimony, and sacred objects that may be discovered during archeological investigations. This Plan of Action shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10 (specifically §10.5[e]), and the Archeological Resources Protection Act (ARPA), 16 U.S.C. 470 et seq., with its implementing regulations (43 CFR Part 7).

Purpose

The purpose of this policy is to describe the procedures that will be followed by all federal agencies, in the event there is an inadvertent discovery of human remains.

Background

A. Project Title:

B. Project Information

- i. Project Sponsor:** Petersburg National Battlefield
- ii. Location:** Grant's Headquarters at City Point
- iii. Federal Land Manager:** National Park Service (NPS)
- iv. Federal Agency Official:** Alexa Viets, Park Superintendent
- v. Details on Determination of Likelihood:** This project has the potential to unearth NAGPRA items. Human remains and grave goods have been recovered within the project area.
- vi. Dates of Archeological Investigations:** TBD
- vii. Park Traditionally Associated Tribal Groups:** Citizen Potawatomi Nation, Chickahominy Indian Tribe, Chickahominy Tribe – Eastern Division, Delaware Nation, Catawba Indian Nation, Pamunkey Indian Tribe
- viii. Definitions:** See end of this document.

- I. Discovery Chain of Contact** The federal agency shall contact the identified tribal representatives below, as soon as possible, but no later than three (3) days, after the discovery.

Table 1. NAGPRA Inadvertent Discovery Plan Key Personnel

Personnel	Affiliation	Role	Contact Information
Alexis Morris	NPS – Petersburg National Battlefield	NAGRPA Coordinator, Archeologist	Office: 804-732-3571, Ext. 304 1539 Hickory Hill Rd, Petersburg, VA 23803 alexis_morris@nps.gov
Alexa Viets	NPS – Petersburg National Battlefield	Superintendent	Office: 804-732-3571, Ext. 105 1539 Hickory Hill Rd, Petersburg, VA 23803 alex_a_viets@nps.gov
Various Personnel	Petersburg City, Virginia Central District	Office of the Chief Medical Examiner, Forensic Anthropologist	Office: 804-786-3174 400 East Jackson Street, Richmond, VA 23219-3964
Joanna Green	Virginia Department of Historic Resources	Archeologist, Forensic Anthropologist	Office: 804-482-6098 2801 Kensington Avenue, Richmond, VA 23221 joanna.green@dhr.virginia.gov
Tribal Partners			
Tracy Winds	Citizen Potawatomi Nation	Tribal Historic Preservation Officer	Office: (405) 878-5830 1601 S. Gordon Cooper Drive, Shawnee, OK 74801 tracy.wind@potawatomi.org
Wayne Adkins	Chickahominy Indian Tribe	Deputy Tribal Administrator	Office: 804-829-2027, Ext. 1002 or (804) 363-0157 8200 Lott Cary Road Providence Forge, VA 23140 wayne.adkins@chickahominytribe.org
Tanya Stewart	Chickahominy Tribe – Eastern Division	Cultural Resources Director	Office: 804-966-7815 2895 Mt. Pleasant Road Providence Forge, VA 23140 tanya.stewart@cit-ed.org
Dr. Wenonah G. Haire	Catawba Indian Nation	Tribal Historic Preservation Officer	Office: 803-417-9057 1536 Tom Steven Road Rock Hill, South Carolina 29730 wenonah.haire@catawba.com
Katelyn Lucas	Delaware Nation	Tribal Historic Preservation Officer/	Office: 405-247-2448 Delaware Nation P.O. Box 825

Personnel	Affiliation	Role	Contact Information
		NAGPRA Coordinator/Section 106 Coordinator	Anadarko, OK 73005 klucas@delawarenation-nsn.gov
Kendall Stevens	Pamunkey Indian Tribe	Cultural Resources Director and Museum Director	Office: kendall.stevens@pamunkey.org; 804- 843-2038

- A. Upon any discovery of human remains and/or cultural items, the lead archeologist will immediately notify the following individuals (see Table 1 for contact information):
1. NAGPRA Coordinator will contact the Richmond Office of the Chief Medical Examiner (OCME) and notify the PETE Superintendent and culturally affiliated American Indian tribes and groups by telephone or electronic mail.
 2. The NAGPRA Coordinator will complete the [Report a Discovery form](#) to be kept with the Park NAGPRA program files
 3. The [Certification of Discovery form](#) should be filled out by the lead archeologist, will also be provided to the PETE Superintendent for dissemination to tribal representatives within 3 days of verification and confirmation that a NAGPRA discovery has occurred.
 4. The email confirmation of discovery should include:
 - i. A narrative from the person who discovered the human remains and/or associated cultural items.
 - ii. A description of when and where the osteological determination will take place, who will conduct the determination, and any key information about storage or transportation of human remains and/or cultural items.

II. CONSULTATION PROCESS

In the event of a discovery of NAGPRA items, consultation with potentially culturally affiliated tribal groups will be conducted in accordance with 43 CFR 10.5 Consultation.

Custody and disposition of Native American human remains, funerary objects, sacred objects and objects of cultural patrimony will follow 43 CFR 10.6. and will be determined during consultation with the parties having claim(s) to the remains and materials in question. During consultation(s), the Native American human remains and/or objects shall be treated respectfully and stored in a secure location.

Custody and disposition of NAGPRA items will be determined in consultation with the identified lineal descendants or culturally affiliated tribal groups, in accordance with 43 CFR 10.6.

If desired, PETE will provide a protected location within the park for the reinterment of any excavated NAGPRA items, as determined through consultation. This location will be as close to

where the remains were found as possible. Prior to reinterment, the remains and/or NAGPRA items will be treated respectfully and housed in a secure environment.

III. Treatment and Disposition of Human Remains and Cultural Items

If potential NAGPRA items are discovered during archeological excavations, the following on-site protocols will apply:

- A.** When Native American human skeletal remains are discovered as a result of the current archeological investigation, the NPS or contractor will cease activity in the immediate area of the human remains and objects, protect them from further disturbance, and provide immediate telephone notification of the discovery to the tribal representatives. The telephone notification shall be followed by written notification. This notification shall include information about the kinds and condition of human remains and cultural items.
- B.** The NPS or Contractor's personnel will treat NAGPRA items with dignity and respect.
- C.** The kinds of objects to be considered as associated funerary objects as defined in 43 CFR Part 10.2(d) are the following:
 - 1. Objects placed intentionally at the time of death or later with or near the human remains or within the burial pit. Historically, these items may include projectile points, broken pottery sherds, entire pottery vessels, and various European trade items (i.e., metal objects, glass, and shell beads), and faunal remains.
 - 2. Sacred objects are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Objects falling under this definition have not yet been determined. Consultation will occur to determine whether objects recovered fall within this definition.
 - 3. Objects of Cultural Patrimony are items having ongoing historical, traditional, or cultural importance central to the Indian tribe rather than property owned by an individual. No objects have been determined under this definition. Consultation will occur to determine whether or not objects recovered fall within this definition.
- D.** NAGPRA items will be protected from the elements by stabilizing the site and covering the discovery location with plywood, tarps, or other materials. If an American Indian Tribal Monitor is present, the Contractor (or PETE) will confer with the monitor before using any materials not listed herein.
 - 1. The area will be secured by the lead archeologist and supporting personnel, restricting access to designated Contractor and PETE personnel, tribal representatives, and American Indian tribal monitors. Securing the area may entail erecting fencing, placing barricades, and increasing law enforcement patrols.
 - 2. The preferred treatment of inadvertently discovered human remains and cultural items is to leave human remains and cultural items in-situ and protect them from further disturbance.

3. If it is determined in consultation that human remains be removed, a secured fireproof safe is present on site at Appomattox Manor. This safe is only accessed by the Parks NAGPRA Coordinator/Archeologist and Curator.
- E.** No destructive “in-field” documentation of the remains and cultural items will be carried out in consultation with the Tribe, who may stipulate the appropriateness of certain methods of documentation.
 - F.** No photographs are to be taken.
 - G.** Upon consultation with tribal representatives, the human remains, and any associated funerary objects will be exhumed and reinterred at a safe, undisturbed location adjacent to the portion of the site investigated, and the requirements of NAGPRA Section 3 will be carried out by the park in consultation with the tribes.
 - H.** Following consultations, exposed remains and associated cultural items will be subject to preliminary archaeological recordation. Identification of the burial outline will be documented by taking dimensions, noting orientation and shape, and noting soil color. The soil surrounding the skeletal remains will be removed to expose the burial and screened for artifacts. Enough measurements will be taken of the outline to permit reconstruction of the shape and dimensions of the pit after excavation. When the burial is completely exposed, sketches and diagrams will be drawn. Location, deposition, position, orientation, and depth will be recorded, and complete measurement of the bones, artifacts, and pit will be noted while in situ. Any pathological conditions observed while in situ will be described in detail. No soil samples of the burial pit will be taken. No photographs of human remains will be taken. Estimation of sex, stature, and age will be documented while in situ. Additional non-destructive documentation of the remains and cultural items will be carried out in consultation with the Tribes.
 - J.** If the remains and cultural items are left in-situ, no disposition takes place and the requirements of 43 CFR 10 Section 10.4-10.6 will have been fulfilled.
 - K.** The specific locations of discovery shall be withheld from disclosure (with exception of local law officials and tribal officials as described above) and fully protected by federal law.
 - L.** A comprehensive report on the results of the archaeological investigation, inadvertent discoveries, the nearby soils, any other related forms of documentation, and a record of consultation with the culturally affiliated tribes shall be prepared and kept on file. This is anticipated to include a Draft Report detailing the recording and analyses of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony after completion of field work. The Draft Report will be provided to lineal descendants or culturally affiliated American Indian tribal groups for review and comment. Associated scheduling will be negotiated through consultation with lineal descendants or culturally affiliated tribal groups. A Final Report will be distributed to lineal descendants or culturally affiliated American Indian tribal groups after distribution of the Draft Report. A copy of the Final Report will be kept on file at the Park.

IV. Protocols for Treatment of NAGPRA Items

A. On- and Off-Site Determinations

1. As soon as any potential NAGPRA items are discovered, the Contractor (and PETE) will cease archeological activities within 5 meters on all sides of the finding until osteological determinations and tribal notifications are completed.
2. The Contractor, in collaboration with on-site tribal representative(s) and PETE, will make a reasonable effort to protect the potential NAGPRA items, open excavation units and archeological sediments from further disturbance, including stabilization or covering. These procedures will follow stipulations contained in Section III.
3. Determination of potential human remains can be made by the forensic anthropologists at the OCME, Department of Historic Resources, or a reputable contractor or institution (cultural resource firms, universities, etc.).
4. On-Site Determinations: In the case that potential NAGPRA items are discovered, the lead archeologist will attempt to verify whether the items are of human and Native American origin by establishing facts and the preponderance of evidence using on-site comparative and reference osteological materials. Depending on the results of on-site determination, the following protocols will apply:
 - i. If remains are determined to be non-human, archeological work may resume immediately.
 - ii. If remains are determined to be human but not Native American, archeological work within 5 meters on all sides of the discovery will remain suspended and consultation with the Coroner and NPS Law Enforcement will be initiated.
 - iii. If remains are determined to be human and Native American, archeological work within 5 meters on all sides of the discovery will remain suspended and NAGPRA consultation procedures will be initiated, as described in Section III and in accordance with 43 CFR 10.5.
 - iv. If bone material cannot be reasonably identified as non-human on site, the bone will be transferred to the Contractor's osteologist for a more in-depth analysis using comparative human materials. Archeological work within 5 meters on all sides of the discovery will remain suspended. NAGPRA consultation procedures shall be initiated, as described in Section III and in accordance with 43 CFR 10.5. Consultation will address appropriate next steps for identification and treatment.

Off-Site Determination: If an off-site determination is necessary, the remains will be transported by the park's personnel to the contractor's designated laboratory. The OCME requires that a Law Enforcement officer accompanies the remains during determination at their office. The remains will be analyzed in a controlled setting where comparative materials are available. The NPS will notify culturally affiliated tribal groups at least 24 hours in advance of transport. The NPS will provide information regarding the location and person to which the bone material will be transported, how the bone material will be transported and how identification will be carried out. The Contractor will attempt to complete the off-site determinations within 7 calendar days. The NPS will provide status of the bone determination to culturally affiliated tribal groups within 3 days. Status updates will be provided through phone and/or e-mail.

Depending on the results of off-site physical examinations the following protocols will apply:

1. If remains are determined to be non-human, archeological work may resume immediately.
2. If remains are determined to be human but not Native American, archeological work within 5 meters on all sides of the discovery will remain suspended and consultation with the Coroner and NPS Law Enforcement will be initiated.
3. If remains are determined to be human and Native American, archeological work within 5 meters on all sides of the discovery will remain suspended and NAGPRA consultation procedures will be initiated, as described in Section IV and in accordance with 43 CFR 10.5.

V. Traditional Treatment

If requested by tribes, PETE and the tribes will designate a tribal field representative to be on-site during archeological investigations. The designated tribal representative would provide on-site traditional cultural treatments for Native American human remains, potential Native American human remains and/or NAGPRA items encountered during archeological investigations.

Post-field treatments of NAGPRA items will be determined in consultation with lineal descendants and/or culturally affiliated American Indian tribes.

Definitions

Associated funerary objects: those funerary objects for which the human remains with which they were placed intentionally are also in the possession or control of a museum or Federal agency. Associated funerary objects also mean those funerary objects that were made exclusively for burial purposes or to contain human remains.

ARPA: Archaeological Resource Protection Act (16 U.S.C. 470 *et seq.*)

Covering: Refers to plywood, tarps, soil, or other materials used to protect NAGPRA items from further disturbance.

Cultural affiliation: There is a relationship of shared group identity that can be reasonably traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. Cultural affiliation is established when the preponderance of the evidence—based on geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion—reasonably leads to such a conclusion.

Custody: Control of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently in Federal or tribal lands after November 16, 1990.

Disposition: The transfer of control over Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony by a museum or Federal agency.

Funerary objects: Items that, as part of the death rite or ceremony, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by a preponderance of the evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or Native Hawaiian organization or as being related to specific individuals or families or to known human remains. (43 CFR Part 2(d)(2)).

Human remains: The physical remains of the body of a person of Native American ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object, or object of cultural patrimony, as defined below, must be considered as part of that item. (43 CFR Part 2(d)(1)).

Inadvertent discovery: The unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (d) of NAGPRA.

Indian tribe: Any tribe, band, nation, or other organized Indian group or community of Indians, including any Alaska Native village or corporation as defined in or established by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Intentional Excavation: The planned archaeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (c) of NAGPRA.

Lineal descendant: An individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descentance to a known Native American individual whose remains, funerary objects, or sacred objects are being claimed under these regulations.

NAGPRA items: Collectively refers to human remains, funerary objects, sacred objects, and objects of cultural patrimony

Objects of cultural patrimony: Items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property

owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group. (43 CFR Part 2(d)(4)).

Sacred objects: Items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. While many items, from ancient pottery sherds to arrowheads, might be imbued with sacredness in the eyes of an individual, these regulations are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony. (43 CFR Part 2(d) (3)).

Stabilization: preparing the earth around the inadvertent discovery to minimize further movement of soil and NAGPRA items.

Unassociated funerary objects: Funerary objects for which the human remains with which they were placed intentionally are not in the possession or control of a museum or Federal agency. Objects that were displayed with individual human remains as part of a death rite or ceremony of a culture and subsequently returned or distributed according to traditional custom to living descendants or other individuals are not considered unassociated funerary objects.