

FINAL PLAN OF ACTION

FERN CAVE, LAVA BEDS NATIONAL MONUMENT

January 30, 2004

Final Plan of Action for an Inadvertent Discovery of Human Remains in Fern Cave, Lava Beds National Monument

This Plan of Action (POA) complies with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.), its implementing regulations (43 CFR Part 10); and, the Archaeological Resources Protection Act (ARPA) (16 U.S.C. 470 et seq.) with its implementing regulations (43 CFR Part 7). In addition, the plan conforms to the June 2002 recommendations of the National Park System Advisory Board on determinations of cultural affiliation under NAGPRA.

The human remains are located in two separate places within Fern Cave that have been officially closed to public access for over a decade. Concentration One consists of incomplete, fragmentary and highly decomposed skeletal human remains, along with one associated funerary object, that were found in the summer of 1999 during an unauthorized tour that was led by a Student Conservation Association technician. Concentration Two also consists of incomplete, fragmentary and highly decomposed skeletal remains. The material in Concentration Two was found and documented during the course of an archeological survey of Fern Cave by employees of the National Park Service and representatives of The Klamath Tribes on 5 days in March and April of 2003. The survey took place in accordance with consultations between the National Park Service and The Klamath Tribes to determine the context of the human remains originally discovered in Concentration One.

The material in Concentration Two is located approximately 23 meters south of the human remains located at Concentration One. The diagnostic bones located in the two separate concentrations are not repeated so it is possible that the minimum number of individuals in this one part of the cave is one. Without further analysis of the skeletal material and immediate geomorphologic contexts it is not possible to confirm the number of individuals who are represented by the skeletal remains that are present in the two areas or that the remains originated within the cave. Complete descriptions, details and locational maps on the two concentrations of human remains are in a confidential archeological survey report that is on file at Lava Beds National Monument. The confidential version will not be available to anyone except designated officials of the NPS and The Klamath Tribes to ensure protection of the material that shall remain in situ. Another version of the report that will not provide confidential information will be available for scholarly use. Four relevant reports are cited in item 8 below.

1. This plan focuses on two loci of incomplete, fragmentary and highly decomposed human skeletal remains that were discovered in Fern Cave at two different points in time as described above. Concentration One has one associated funerary object. There are no funerary objects associated with Concentration Two. The kinds of objects considered as cultural items under NAGPRA are defined in 43 CFR Part 10.2(d).

2. The preponderance of geographical, archeological, linguistic, folklore, oral tradition, and historical evidence for the determination of custody for these cultural items identifies the Modoc Indians as traditionally associated with the land on which Lava Beds National Monument is located. This traditional association is supported by the fact that Lava Beds National Monument is surrounded by the judicially established land area of the historic Modoc Tribe according to findings of the US Indian Claims Commission. Today, contemporary descendants of the Modoc are members of both the multi-cultural Klamath Tribes of Chiloquin, Oregon and the Modoc Tribe of Oklahoma. Both tribes are federally recognized and have standing under NAGPRA. Therefore, members of the Klamath Tribes and the Modoc Tribe are most likely to have a shared group identity, to be culturally affiliated, with an earlier group who occupied and used this unit of the national park system in past centuries. The preponderance of the evidence indicates that The Klamath Tribes and the Modoc Tribe share a relationship of cultural affiliation with the human skeletal remains and one associated funerary object that have been documented in Fern Cave.
3. The planned treatment for the human remains and one associated funerary object in Concentration One and the human remains in Concentration Two is to precisely map their locations and to implement a comprehensive Cave Management Plan. Critically important components of the plan will be to keep the area off-limits to public access and to fully inform park staff about the protective restrictions that are in place within Fern Cave.
4. As noted above, the entire cave has been subjected to an archeological survey as part of an earlier Plan of Action developed to understand and document the extent and context of the human remains that are located in Concentration One.
5. In recognition of opposition expressed by representatives of The Klamath Tribe during our consultations no analysis of human remains and the one associated funerary object documented in Fern Cave is planned.
6. This plan of action concerns the human remains and funerary object that are in Fern Cave only. The park consulted with The Klamath Tribes on the conduct of the archeological survey and facilitated the direct participation of tribal representatives in that effort. The plan to leave the material in situ and to provide further protection through the implementation of a Cave Management Plan is responsive to tribal sensitivities. Lava Beds National Monument will seek to collaborate with both The Klamath Tribes and the Modoc Tribe of Oklahoma to develop a comprehensive NAGPRA agreement for future inadvertent discoveries and intentional excavations elsewhere in the park. New written plans of action will be developed as needed.
7. In the event that representatives of The Klamath or Modoc Tribes wish to engage in traditional treatments of the human remains and the one associated funerary object, consultations will take place to determine and agree upon protocols that do not threaten the security and preservation of the materials.
8. Four reports exist concerning the NAGPRA material in Fern Cave: a). Assessment of Human Remains and An Aboriginal Artifact Identified in Fern Cave (CA_MOD-17), Lava Beds National Monument, California by Susan L. Kerr, 2001 [This report refers to material in Concentration One as defined above. It is confidential and shall have restricted access due to detailed information on human remains and their location]; b. Report on Remains Found in Fern Cave, Lava Beds National Monument, CA by Susan L. Kerr, 2003 [This report refers to material in Concentration Two as defined above. It is confidential and shall have restricted access due to detailed information on human remains and their location.]; c. Confidential

Fern Cave Survey Report, Lava Beds National Monument by Kirstie L. Haertel and Douglas Wilson, 2004 [This report is on the archeological survey that took place in March and April 2003. Access will be restricted.]; and d. Non-confidential Fern Cave Survey Report, Lava Beds National Monument by Kirstie L. Haertel and Douglas Wilson, 2004 [This general report on the archeological survey of Fern Cave will not have detailed information on the human remains and their locations. Maps will not show that information]. In addition to the four reports just cited, three documents are appended to this Final Plan of Action. The first is a proposed scope of work for “The Non-Destructive Study of Probable American Indian Human Remains in Fern Cave at Lava Beds National Monument.” The second is a Trip Report Memorandum of April 29, 2002 from Frederick F. York, Regional Anthropologist to Craig Dorman, Superintendent, Lava Beds National Monument. The third is a preliminary proposed “Plan of Action.” In all cases, the park consulted with the Klamath Tribes and revised the proposed actions accordingly. The results of the consultations and revisions are embodied in this Final Plan of Action.

9. The NAGPRA material that has been documented in Concentration One and Concentration Two of Fern Cave will be protected in situ. The two areas with these materials will remain unavailable for public use and a comprehensive Cave Management Plan will be developed and implemented to fully inform park staff of any access or use restrictions and need to avoid prescribed areas within Fern Cave.

Appended Material:

1. Proposed Scope of Work for The Non-Destructive Study of Probable American Indian Human Remains in Fern Cave at Lava Beds National Monument
2. Trip Report Memorandum of April 29, 2002 from Frederick F. York, Regional Anthropologist to Craig Dorman, Superintendent Lava Beds National Monument.
3. Preliminary Proposed Plan of Action, Fern Cave, Lava Beds National Monument, May 31, 2002.