

# Sovereign-to-Sovereign Agreements

Practical Solutions for Navigating  
Shared Stewardship



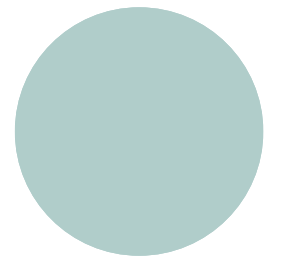
# Introduction

## Noah Lee

The Wilderness Society Fellow  
Native American Rights Fund

## Katie Shea

Tribal Co-Management Policy Fellow  
National Parks Conservation Association







**What does  
Sovereign-to-Sovereign  
collaboration mean?**

## Co-stewardship

Co-stewardship broadly refers to collaborative or cooperative arrangements between Bureaus and Tribes and Native Hawaiian Organizations related to shared interests in managing, conserving, and preserving Federal lands and waters.

*Source: Dep't Interior Office of Solicitor, Final Report on Co-Stewardship Authorities (Nov. 2022)*



## Co-management

Co-management narrowly refers to collaborative or cooperative stewardship arrangements that are undertaken pursuant to Federal authority that **requires the delegation of some aspect of Federal decision-making or that make co-management otherwise legally necessary**, such as management of the salmon harvest in the Pacific Northwest, where co-management has been established by law.

*Source: Dep't Interior Office of Solicitor, Final Report on Co-Stewardship Authorities (Nov. 2022)*

# Sovereign-to-Sovereign Cooperative Agreements

Nevertheless, Bureaus **retain significant latitude** to use agreements with outside partners to support their government operations without inappropriate transfers of agency authority.

*Source: Dep't Interior Office of Solicitor, Final Report on Co-Stewardship Authorities (Nov. 2022)*

# SOVEREIGN-TO-SOVEREIGN COOPERATIVE AGREEMENTS

- Introduction**
- Introduction
- Partners
- Background
- FAQs
- Agreements
- Agency Authorities
- Related Laws & Regulations
- Agency Guidance
- Tribal Guidance
- Federal Landscape Planning
- Tribal Consultation
- Public Disclosure
- Indigenous Knowledge and Co-Knowledge Production
- Dispute Resolution
- Sacred Places
- Scholarship
- Related Webinars

## Introduction

This repository is a work in progress based on a collaboration between The Native American Rights Fund, the Gallagher Law Library and the Native American Law Center at the University of Washington School of Law, the Bolle Center for People and Forests at the University of Montana, the Wilderness Society, the Natural Resources Defense Council, the Henry Luce Foundation, the Wilburforce Foundation, and the First Nations Development Institute.

Please send any comments to [uwnalc@uw.edu](mailto:uwnalc@uw.edu).

## Partners

This project is completed in partnership with the Native American Rights Fund (NARF), the University of Washington School of Law, the Henry Luce Foundation, the Wilderness Society, the Bolle Center for People and Forests at the University of Montana, the Native American Law Center at the University of Washington School of Law, the Wilburforce Foundation, and First Nations Development Institute.



**URL:**  
[lib.law.uw.edu/cooperative](http://lib.law.uw.edu/cooperative)



# Data Sovereignty Protocol

The following cooperative agreements were identified in accordance with principles of **data sovereignty** and the policy recommendations of the **University of Arizona's Native Nations Institute**. In providing the agreements collected here, the following protocols were used to ensure any tribes mentioned by name provided their **free, prior, and informed consent** for the public use of these documents. The goal of the Data Sovereignty Protocol is to ensure this database does no harm and in no way impedes the rights of any tribes to access, remove, or correct information herein. The following steps were taken to meet this goal:

**Step 1** – Seek agreements already publicly available.

**Step 2** – Request permission from any tribes mentioned in already publicly available documents. In seeking permission, provide to the Tribe: 1) the purpose of the request, 2) how the information linked through this repository may be used, 3) how to provide permission, and 4) how to exercise their right to rescind permission at any time.

**Step 3** – Seek the free, prior, and informed consent from any tribe mentioned by name if the agreement is not publicly available. Establish a publication agreement to obtain consent in writing from the governing body (e.g., tribal council) or authorized signatory.

If there are ways we can improve our protocol, please let us know at [uwnalc@uw.edu](mailto:uwnalc@uw.edu).

By giving permission to share the below agreements, the tribes in question retain all rights to that information. Tribal permission to include information within this repository does not serve as implicit consent for its use in any way.

Users of this database are strongly encouraged to seek free, prior, and informed consent of Tribes in question for any further use of the agreements shared here.

Effort to put FPIC  
in Practice



# Data Sovereignty--Right to Rescind Permission

1

**Ensure Tribal governments know they have the right to rescind permission**

2

**Clarify that Tribal governments have the right to do so at any time and without explanation**

3

**Make this process clear and as easy as possible**

# Policy Resources

A navigable guide to authorities that support strategic collaboration, scholarly articles on co-management/co-stewardship, and more



## Scholarship

Articles that cover topics from Federal Trust Responsibility in resource management to case studies of existing co-management agreements



## Tribal & Agency Guidance

Data Governance, Establishing co-management/co-stewardship relationships  
Presidential, Department, and Agency Directives and Guidance



## Related Law & Regulations

Cites other policy areas that support strategic collaboration outside of natural resources, such as cultural resource management and visitor services



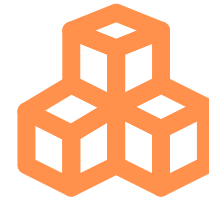
# What is the *Digest*?

Designed for Tribal representatives and Federal partners, the *Cooperative Agreement Digest* outlines a model agreement using thematic concepts and sample provision language from existing co-stewardship and co-management agreements.



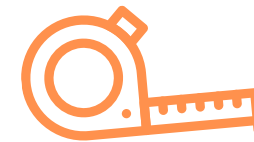
# Approach

Key considerations that inform the structure of the *Digest*



## Receptive v. Prescriptive

Flags key considerations to develop flexible and creative language



## Tailored to Need

Thematic sample provisions offer a template to design according to the needs or shared goals of the agreement parties



## Focus

Tribal leadership and representatives, agency representatives, (anyone else?)

# Goals

What we strive for the *Digest* to provide

01



Outline Scope  
and Utility of  
Agreements

02



Identify  
Sovereignty-  
Affirming Language

03



Highlight  
Resources

# Section Format

1

## Introduction

Explains function of section within agreement

2

## Role of Section

Defines role within agreement and party relationships

Identify relevant considerations and potential legal implications

3

## Sample Provisions

Base language

Case-specific language

4

## Useful Authorities

Citations to repository appendix



# Agreement Sections



1. Preamble
2. Parties and Scope
3. Background
4. Governing Principles
5. Purpose
6. Objectives
7. Implementation
8. Administrative Matters
9. Appendices

# Key Features of Sovereign-to-Sovereign Cooperative Agreements

1

The Tribal Nation is a sovereign government; the federal party is an agent of the federal trust responsibility.

2

The relationship between a Tribal Nation and Federal agency is governed by treaties and the federal trust responsibility.

3

The relationship formalized through the agreement is necessary to further the sovereign interests each party has in the lands subject to the agreement.

# Relevant Considerations

How THPO responsibilities and relevant processes may interact with cooperative agreements



## Consultation & Joint Decision-Making

- Cooperative agreements set forth commitments and processes that are **in addition** to the rights Tribal Nations have under Section 106 of NHPA and processes within Programmatic Agreements



## Information Sharing and Confidentiality

- Cooperative agreements set forth processes that clarify how the confidentiality of culturally sensitive information and proprietary information will be maintained



## Formal Processes for Tribal-Federal Coordination

- Cooperative agreements can establish processes for the coordination of NRHP nomination and listing, establishing “Tribal Special Designation Areas”, and maximizing protections of those areas



# Relevant Themes



## Education & Interpretation

Collaborative efforts to establish baseline documents for interpretive plans, cocreation of exhibits, strategic collaboration for commemorations



## Indigenous Knowledge

Incorporation of Indigenous Knowledge in management plans and Interpretive programming, implementing Cultural Advisory Committee



## Protection of/Access to Cultural Resources

Cooperative agreements may adopt the purpose of protecting Tribal traditional and cultural resources and/or practices on public lands. Specific processes may memorialize Tribal access priorities, streamline Special Closure processes for Tribal privacy and access, confidentiality protections.

**FIRST NATIONS**   
DEVELOPMENT INSTITUTE



U.S. FOREST  
SERVICE  
COMMUNITY  
NAVIGATOR  PROJECT



For more information, contact **Leiloni Begaye**, First Nations Development Institute, at [lbegaye@firstnations.org](mailto:lbegaye@firstnations.org) or 303-774-7836.

Learn more at  
[firstnations.org/community-navigator](https://firstnations.org/community-navigator)







*Thank you!*

**Noah Lee**

lee@narf.org

**Katie Shea**

kshea@npca.org



**URL:**

**[lib.law.uw.edu/cooperative](https://lib.law.uw.edu/cooperative)**