

AGREEMENT
between
NATIONAL PARK SERVICE
And
Arizona Board of Regents, University of Arizona
On Behalf of its
Laboratory of Tree-Ring Research

105 West Stadium
Tucson, Arizona 85721-0058
On

Management of NPS Specimens Collected for Tree-ring Analysis

I. Background and Objectives

This agreement covers natural history and cultural collections (specimens and associated records, or copies) made on any national park system lands for the purposes of tree-ring analysis, and stored and managed by the Arizona Board of Regents, University of Arizona on behalf of its Laboratory of Tree Ring Research (LTRR). All past and future collections that NPS offers and LTRR currently curates and will accept are covered by this agreement including collections made under 36 CFR 2.5.

The National Park Service (NPS) museum collections contribute to science, resource management, and education in units of the national park system. The collections number more than 125 million items from 394 units of the national park system. The NPS collections are managed in national park units, NPS centers, and non-NPS repositories. Scientific natural resource collecting activities are governed by 36 CFR 2.5. Management and preservation of archeological collections are governed by 36 CFR 79. Non-NPS researchers collecting in parks must have an approved Scientific Research and Collecting Permit and NPS and non-NPS researchers must conform to the Permit General Conditions. Non-NPS archeological collecting activities are subject to an Archaeological Resources Protection Act (ARPA) or Antiquities Act (AA) permit, as applicable. Although a Permit is not required for NPS archeological fieldwork, all work performed by NPS archeologists is held to the highest federal standards (see NPS Director's Order #28A, Sections 6A and 6B and Secretary of the Interior's Standards for Archeological Documentation). NPS authority to manage these collections is in 16 USC 1-4 (National Park Service Organic Act) and 16 USC 18f, 18f-2--18f-3 (National Park Service Museum Act).

The LTRR is a research unit in the College of Science at the University of Arizona in Tucson, Arizona, engaged in a diverse array of research programs that include fire history and fire ecology, multiproxy paleoclimatology, archeology, biogeography, isotope geochemistry, paleoecology, biogeochemistry, geomorphology, numerical and statistical modeling, and public health based on the analysis of tree rings from both natural and cultural settings. As part of the ongoing research program the LTRR maintains a

repository for housing the wood samples and cores that form the basis for this research. The LTRR has had a long history of working with the NPS on many research projects conducted on NPS lands resulting in the collection of specimens from both natural settings and cultural sites. Many of these samples are currently housed at the LTRR, which has served as a steward for these NPS collections.

Bulk wood samples and tree cores from natural and cultural sites help NPS to better understand historical uses of and climatic and other changes to the lands it manages. Managing these NPS collections in partnership with LTRR will provide for their preservation, enhance their research value through ongoing study and identification, and make them readily accessible to researchers using the LTRR collections. NPS collections will enhance the biological and geographical diversity represented in the LTRR collections. All units of the national park system will have the option of placing collections at LTRR under this agreement.

Individual parks have always had the option of storing collections at the LTRR under NPS loan agreements. Managing multiple loan agreements from multiple parks places a burden on LTRR's resources. This agreement will facilitate and streamline such loan arrangements for both LTRR and all parks and improve the ability of parks and LTRR to respond to the increased collecting activity in parks.

II. Definitions

- A. "Confidential Information" shall mean any information or material in tangible form that is marked as confidential or proprietary by the sending Party at the time it is delivered to the receiving Party, and information that is given orally if the sending party identifies such information as confidential or proprietary when it is disclosed and promptly confirms such designation in writing after such disclosure. Archeological site location information is confidential information. Confidential Information does not include:
1. Information that is publicly known or available from other sources who are not under a confidentiality obligation to the source of the information; or
 2. Information that has been made available by its owners to others without a confidentiality obligation; or
 3. Information that is already known by or available to the receiving Party without a confidentiality obligation; or
 4. Information that relates to potential hazards or cautionary warnings associated with the handling, use or disposal of NPS specimens; or
 5. Information that is required by other applicable law or by this Agreement to be disclosed.

- B. "NPS Catalog" shall mean the National Park Service National Catalog of Museum Objects as described in NPS Management Policies 2006 (5.1.3.1) and Director's Order #24 NPS Museum Collections Management (4.1.4) available at <http://www.nps.gov/policy/>.
- C. "Web Catalog" shall mean the National Park Service catalog data posted at <http://www.museum.nps.gov/>.
- D. "NPS Permittees" shall mean researchers that collect NPS specimens in NPS units pursuant to permits issued under 36 CFR 2.5 and researchers that collect archeological material pursuant to an AA or ARPA permit.
- E. "Consumptive Use" is use of a museum item that results, or is likely to result, in damage to the item, beyond the minor damage that occurs with generally accepted usage, such as exhibition.
- F. "Destructive Analysis" is analysis that destroys all of a museum item. NPS regional directors must approve destructive analysis for rare or highly significant museum items.
- G. "Destructive Sampling" is analysis that destroys a small sample of a museum item. Regional directors must approve destructive sampling for rare or highly significant museum items. By using this Agreement, Superintendents authorize LTRR to make decisions on all other destructive sampling in accordance with its policy on "Destructive Testing" (see <http://www.ltrr.arizona.edu/collection/content/destructive-testing>).
- H. "Active research collection" constitutes materials currently held under the authority of an active Scientific Research and Collecting Permit or an AA or ARPA permit and in the direct care of LTRR faculty and principal investigators. These specimens will not have been added to the LTRR catalog or accessioned by the LTRR Curator. These collections are not covered by this Agreement, except where specifically cited. These collections are not part of the NPS museum collection, but may be so designated in the future if the material is not consumed in analysis and is to be permanently retained.

III. Authority

NPS is authorized to enter this Agreement pursuant to the authority contained in the National Park Service Organic Act, 16 USC Section 1, the National Parks Omnibus Management Act of 1998, 16 USC Section 5935, and the National Park Service Museum Act, 16 U.S.C. Section 18f, 18f-2-18f-3.

IV. Scope of Work (Roles and Responsibilities)

- A. Pursuant to this agreement NPS will:

1. Authorize and encourage parks, in collaboration with permittees, to deposit NPS specimens collected for tree-ring analysis in the collection at LTRR, as appropriate.
2. Authorize LTRR to manage the NPS specimens and associated records in a manner consistent with management of LTRR's collections.
3. Provide for the cataloging of NPS specimens deposited at LTRR.
4. Facilitate use of the specimens to benefit science and public education, including authorizing LTRR to issue third-party loans of NPS specimens for the purposes of research, education and exhibition.
5. Implement all required NPS procedures included in the procedures set forth in Section V and Annex I of this Agreement.

B. Pursuant to this agreement LTRR will:

1. Manage the NPS specimens deposited on loan under this Agreement according to NPS policies and procedures cited in this Agreement
2. Make NPS collections and associated documentation except Active Research Collections accessible to the public, subject to the terms of this Agreement.
3. Refine the data on records as they are used in accordance with procedures in Section V and Annex I of this Agreement.
4. Comply with all laws, rules, and regulations pertaining to the maintenance and use of Government property, both tangible and intellectual. (Applies to Active Research Collections.)
5. Provide to the NPS Key Official an annual report by July 31, that includes the following information and any additional information that LTRR determines is relevant for the previous fiscal year (October 1-September 30):
 - a. An analysis of the use of the NPS specimens housed in their collections during the fiscal year, including use for scientific research, education programs, and public access.
 - b. A summary of the findings in the annual inventory.
 - c. Recommendations for improved management and use of the collections for public benefit
 - d. A list of any fees charged for access to NPS specimens and associated records.

V. Operational Procedures

In addition to the terms listed below, both Parties agree to follow the detailed operational procedures specified in Annex 1 of this Agreement.

A. Both Parties agree that:

1. Specimen collection and management of park specimens and associated records, including loans, complies with 36 CFR 2.5, 36 CFR 79, and, except as noted herein, with NPS policies, including:
 - a. Management Policies (available at <http://www.nps.gov/policy>)
 - b. Director's Order #24: NPS Museum Collections Management (available at <http://www.nps.gov/policy>)
 - c. NPS procedures, including NPS *Museum Handbook* and the *Interior Collection Management System (ICMS) User Manual* (available at <http://www.nps.gov/history/museum/publications/ICMS.html>) or its replacement programs; and
 - d. Permitting procedures (available at <http://science.nature.nps.gov/research/ac/ResearchIndex> and <http://www.nps.gov/archeology/npstguide/permits/index.htm>)
2. Management of specimens and associated records complies with LTRR policies. It is anticipated that most LTRR requirements are consistent with NPS requirements. When LTRR requirements conflict with NPS requirements, NPS requirements will prevail with respect to NPS specimens, except as noted in this Agreement.
3. Differing requirements between NPS and LTRR policies known at the initiation of the Agreement have been herein identified and procedures provided in this Agreement. The Agreement will be amended to resolve any conflicting requirements that may be identified in the future.
4. LTRR may integrate NPS collections into the LTRR collections physically in storage, exhibits, and programming and through its documentation systems for management and access purposes, except that collections may not be physically integrated where they might be exposed to known pre-existing hazardous conditions in the LTRR collections, such as arsenic or asbestos, or to use that would rapidly accelerate their deterioration.

5. Parks that intend to designate LTRR in a permit or in a park employee study plan must ensure that, as applicable,
 - a. the Application for a Scientific Research and Collecting Permit or employee study plan refers to this Agreement and names LTRR in the repository signature block on page 2 of the application. A signature of an official of the LTRR is required on each Application.
 - b. the Application for an AA or ARPA permit refers to this Agreement and names LTRR as the repository in #11, Section A of the application.

The park will send LTRR copies of all permits issued that name LTRR as the designated repository at the same time the permit is issued.

6. LTRR may annually or more frequently request a park to notify LTRR in advance of the types and quantities of specimens likely to be deposited with LTRR within a specified future period.

B. LTRR agrees that:

It will negotiate additional conditions, if any, for specific repository loans with individual NPS units that are consistent with this Agreement, NPS regulations, permitting procedures, and NPS loan conditions. These additional conditions will be included in the park's outgoing loan agreement to LTRR for the specific loan.

C. NPS agrees that:

When choosing a management option for park collections related to tree-ring studies, including both specimens and associated records, priority will be given to housing those collections from the same park accession in a single repository to facilitate research and use. Superintendents may authorize housing of collections from the same accession at different repositories if, by so doing, preservation, research, and use will be improved.

VI. Key Officials and Contacts

For purposes of mailings and notices or other communications, the addresses of the Parties are given below. A Party may change its address by giving written notice to the other Party.

A. For NPS:

Name	Stephanie Rodeffer
Title	Museum Services Program Manager
Address	255 N Commerce Park Loop
Telephone	520 791 6401
Fax	520 791 6465
e-mail	Tef_Rodeffer@nps.gov

B. For [LTRR]:	Technical:	Administrative:
Name	Pearce Paul Creasman	Lee Anne T Peters
Title	Curator, LTRR	Contract Officer
Address	105 W Stadium Dr Tucson AZ 85721	888 N Euclid Avenue #515 Tucson, AZ 85719
Telephone	520 621 2414	520-626-4589
Fax	520 621 8229	520-626-4520
e-mail	pcreasman@ltrr.arizona.edu	petersl@email.arizona.edu

VII. Confidentiality

A. Protection of Confidential Information.

Except as required under court order or the Freedom of Information Act (5 USC 552), Confidential Information shall not be disclosed, copied, reproduced or otherwise made available to any other person or entity without the consent of the owning Party. Each Party agrees to use its best efforts to maintain the confidentiality of Confidential Information. Each Party agrees that the other Party is not liable for the disclosure of Confidential Information which, after notice to and consultation with the concerned Party, the other Party in possession of the Confidential Information determines may not be lawfully withheld, provided the concerned Party has been given an opportunity to seek a court order to enjoin disclosure.

B. Duration of Confidentiality Obligation

Except as required under federal law, the obligation to maintain the confidentiality of Confidential Information shall expire no later than five years after the termination of this Agreement.

VIII. Intellectual Property

A. Ownership: NPS specimens and associated records are the property of the United States Government.

B. Enforcement of Rights: Any future action or lawsuit to enforce intellectual property rights involving NPS specimens pursuant to this Agreement shall be initiated solely at the discretion of NPS. LTRR agrees to advise NPS of any events that cause LTRR to suspect that the loan of an NPS specimen to a third party is or may be violating the intellectual property rights of NPS or LTRR.

C. The Parties agree to cite in catalogs and publications referencing NPS specimens the following terms: "National Park Service," park name, specimen name, NPS catalog number, and LTRR number.

IX. Warranty, Liability and Indemnification

A. Each party accepts full responsibility for any property damage, injury, or death caused by the negligent acts or omissions of their respective employees, acting within the scope of their employment, or their contractors' scope of work, to the fullest extent of the law. All claims shall be processed pursuant to applicable governing law.

B. No indemnification for any loss, claim, damage, or liability is intended or provided by any party under this Agreement. The NPS shall be liable for the acts or omissions of its employees, acting within the course and scope of their employment, to the extent provided under the Federal Tort Claims Act, 28 USC Sections 1346, 2671-80. To the extent permitted by applicable law, LTRR shall be liable for the negligent or wrongful acts or omissions of its employees, acting within the course and scope of their employment.

C. Any specimens, associated records, or Confidential Information loaned from one Party to the other under this Agreement shall be provided as is; furthermore, the Parties make no representations whatsoever as to the specimens, associated records or Confidential Information. They are provided without warranty of merchantability or fitness for a particular purpose or any other warranty, express or implied. The parties make no representation or warranty that the use of the specimens, associated records, or confidential information will not infringe any patent or other proprietary right. LTRR warrants that all sub-loans of specimens as contemplated by this Agreement shall be in substantial compliance with all applicable US federal law and regulations.

D. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of the Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party (hereinafter, a Force Majeure event), including but not limited to fire; floods; embargoes; war; acts of war (whether war be declared or not); insurrections, acts of terrorism; riots; civil commotions; strikes, lockouts, or other labor disturbances; theft; vandalism; acts of God; or acts, omissions, or delays in acting by any governmental authority (including regulatory and advisory bodies) or the other Party. Upon the occurrence of any Force Majeure event, the affected Party shall give written notice of such event to the other Party and shall use reasonable efforts to overcome such Force Majeure event.

X. Term of Agreement

This Agreement shall be in force for a period of ten (10) years from the date of the last approving signature. The Agreement may be renewed for additional ten (10) year terms upon written consent of the Parties.

XI. Termination

A. This Agreement will terminate when the ten (10) year term has expired, unless renewed in writing by the Parties three (3) months in advance of the expiration date.

B. Either Party may terminate this Agreement without any legal process whatsoever by giving the other party ninety (90) days written notice of termination, effective at the end of the ninety (90) day period, for no cause or upon occurrence of any of the events set forth below, except that in the case of (3) or (4) below, such termination shall occur automatically and without the necessity of notice to the other Party

1. If either Party fails to observe any of the material terms and conditions of the Agreement, and, after sixty (60) days from receipt of written notice, fails to cure such default.
2. In the case of NPS, if LTRR violates the laws, regulations or other legal authority in any jurisdiction relating to the care, use, storage, or sub-loan of the NPS specimens and associated documentation in a way that NPS deems it reasonable judgment to constitute a public safety or health hazard.
3. If LTRR or its parent agency becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to a Bankruptcy Event, LTRR must give NPS immediate notice (within five [5] days) of the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act, or making any assignment for the benefit of creditors. For purposes of the bankruptcy statutes, NPS considers this Agreement an executory contract exempt from inclusion in the assets of LTRR pursuant to 11 USC 365.
4. The parties recognize that the performance by LTRR may be dependent upon the appropriation of funds by the State Legislature of Arizona. Should the Legislature fail to appropriate the necessary funds or if the University's appropriation is reduced during the fiscal year, the Board of Regents may reduce the scope of this Agreement if appropriate or cancel this Agreement without further duty or obligation. LTRR agrees to notify the other party as soon as reasonably possible after the unavailability of said funds comes to its attention.

C. Notwithstanding the foregoing, the NPS may terminate this Agreement for the convenience of the Government, at any time, when it is determined to be in the best interest of the public to do so. LTRR shall be notified in writing within five (5) working days following the termination.

D. Surviving any termination or expiration are:

1. Any cause of action or claim of LTRR or NPS, accrued or to accrue, because of any breach or default by the other Party; and

2. Any provisions in this Agreement that by their nature are intended to survive. This shall specifically include Articles VII, VIII, and IX and Sections XI (D) and XII (B), (C).

XII. Required and Standard Clauses

A. **Non-Discrimination:** The parties shall not discriminate in the selection of employees or participants for any employment or other activities undertaken pursuant to this Agreement on the grounds of race, creed, color, sex, age disability, or national origin, and shall observe all of the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d) *et seq.*).

B. **Anti-Deficiency Act:** Pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1), nothing contained in this Agreement shall be construed as binding the United States to expend any sum in excess of appropriations made by Congress for the purposes of this Agreement, or as involving the United States in any contract or other obligation for the further expenditure of money in excess of such appropriations.

C. **Compliance with Applicable Law:** The parties shall comply with all applicable laws and regulations. This Agreement is subject to all laws, regulations and rules governing NPS property, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as in any way impairing the general powers of the NPS for supervision, regulation, and control of its property under such applicable laws, regulations, and rules.

D. **Advertising and Endorsements:** LTRR may use the terms "NPS," "National Park Service," and the NPS arrowhead logo to identify NPS specimens and associated records on LTRR's website, in associated documentation, and on specimen labels. LTRR shall not otherwise publicize or circulate promotional material (such as advertisements, sales brochures, or press releases) that states or implies NPS endorsement of a product, service, or position that LTRR represents, unless approved in advance by NPS. No release of information relating to this Agreement may state or imply that the NPS approves of the work product of LTRR to be superior to other products or services.

E. NPS shall not publicize or circulate promotional material (such as advertisements, sales brochures, or press releases) that states or implies LTRR or University of Arizona endorsement of a product, service, or position that NPS represents, unless approved in advance by LTRR. No release of information relating to this Agreement may state or imply that the LTRR approves of the work product of NPS to be superior to other products or services.

XIII. Assignment

No transfer or assignment of this Agreement, or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by all Parties.

XIV. Additional Terms

A. This Agreement applies to all repository loans for any parks in the NPS to LTRR for the covered collections. Specimens are on loan to LTRR through a single repository loan per park that is subject to this umbrella repository agreement.

B. The term of all loans from NPS to LTRR under this Agreement will be ten (10) years, except that none shall extend beyond the termination date of this agreement. Individual park repository loans will be renewed every fifteen years unless either party has given three months written notice of intent to terminate that specific loan or this Agreement. All park repository loans issued under this agreement will immediately terminate if this agreement terminates.

C. The Agreement may be modified by written consent of all of the Parties to cover the need for any alterations that may arise subsequent to the Effective Date of this Agreement.

D. If any term or provision of this Agreement is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions.

E. No term or provision of this Agreement shall be waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No waiver of a breach shall be deemed to be a waiver of a different or subsequent breach. Failure by either Party to enforce, or delay in exercising, or to partially exercise any covenants or rights or remedies under this Agreement shall not be deemed or construed as a waiver of such rights, nor shall waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other or subsequent instances.

F. In the event that further lawful performance of this Agreement or any part hereof by either Party shall be rendered impossible by or as a consequence of any law, regulation, order, rule, direction, priority, seizure, allocation, requisition, or any other official action by any department, bureau, board, administration, or other instrumentality or agency of any government or political subdivision thereof having jurisdiction over such Party, such Party shall not be considered in default hereunder by reason of any failure to perform occasioned thereby.

G. Except as expressly stated herein, neither Party has the right or authority to assume or create any obligation, accept legal process, make commitments, incur any charges or otherwise bind or act on behalf of the other or limit the other in any manner whatsoever. Neither this Agreement nor any act hereunder shall be construed as constituting the foundation of a partnership, association, agency joint venture or any other entity.

H. The NPS and LTRR acknowledge that failure to perform the obligations and agreements set out herein and/or failure amicably and quickly to resolve disputes may result in irreparable injury to either Party. Accordingly, the Parties agree to use their best efforts to settle all disputes between them, and, if and when that fails, the Parties agree to arbitrate any dispute in accordance with the rules of the American Arbitration Association as an alternative to litigation, which both Parties pledge their best efforts to avoid, with any arbitration proceeding being nonbinding unless otherwise agreed to in advance by the Parties. The Parties acknowledge and agree that arbitration is frequently expensive and time consuming, and thus, the Parties agree that in advance of any arbitration hereunder each shall use its mutual best efforts to negotiate a comprehensive set of procedures designed to ensure that such arbitration is conducted expeditiously and at the lowest possible cost.

I. Annexes. This Agreement includes Annex I, which is hereby incorporated by reference.

J. This Agreement constitutes and contains the entire Agreement of the Parties respecting its subject matter and supersedes any and all prior negotiations, correspondence, understandings, and agreements, whether written or oral, between the Parties respecting its subject matter.

XV. Authorizing Signatures

Agreed between the Parties:

Ronald C. Wilson
National Park Service

Lee Anne F Peters
Arizona Board of Regents,
University of Arizona

Ronald C. Wilson
Name

Lee Anne F Peters
Name

Chief Curator
Title

Contract Officer
Title

2/16/2012
Date

2/13/12
Date

AGREEMENT
between
NATIONAL PARK SERVICE
and
LABORATORY OF TREE-RING RESEARCH
UNIVERSITY OF ARIZONA
on
Management of NPS Specimens Collected for Tree-ring Analysis
Annex 1: Operational Procedures

A. General Management

1. Both Parties agree that:

- a. Each will keep the other party informed, at all times, of its official contact person and appropriate e-mail addresses for each loan. Unless otherwise notified the official e-mail contact for each park will be the superintendent. Superintendent addresses take the following form using the park acronym PARK_Superintendent@nps.gov. The name and address for each superintendent is on the NPS Web site searchable by park name at <http://data2.itc.nps.gov/npsdirectory>.
- b. Both Parties agree that from time to time NPS may request and LTRR may provide special services, such as posting collections on-line in the NPS Web Catalog at <http://www.museum.nps.gov>, making digital images, and providing non-routine conservation treatments. Funding for such services is to be negotiated and documented in an associated funding agreement, as needed.

2. LTRR agrees to:

- a. Bear all costs of providing routine storage, maintenance and access, unless another agreement between LTRR and NPS addresses these costs.
- b. Charge for access only in extraordinary circumstances, and report all access charges to the NPS Key Official by July 31st annually for the previous fiscal year.
- c. Accommodate NPS needs, from time to time, to co-locate NPS personnel at LTRR to facilitate study of NPS collections. The terms of such arrangements are to be determined in an agreement between NPS and LTRR signed in advance and may include provisions for NPS personnel to provide cooperative assistance to LTRR.

3. NPS parks (units) agree to:

- a. Assign NPS personnel to work with LTRR according to terms of specific provisions agreed between LTRR and NPS when such arrangements would be mutually beneficial.
- b. Require any personnel co-located at LTRR to abide by this Agreement and follow LTRR procedures for handling collections.
- c. Provide funds to LTRR for services rendered in accordance with any additional agreements, subject to appropriated funds.

B. Documentation, Information Management, and Accountability

1. Both Parties agree that:

- a. The collections will be at LTRR as a repository loan(s) for the purpose of long-term storage and collection management, including for research and other scientific purposes.
- b. Each park that has a repository loan to LTRR will have a single loan with a single set of conditions. The park will amend the list of items on loan as it sends additional specimens to LTRR and receives returned specimens. The park will amend the conditions as necessary. Individual termination of the associated park repository loans will be according to the conditions of each repository loan.

2. The standard NPS loan conditions will apply except as noted below:

- a. LTRR will have authority to approve destructive sampling of most specimens without prior approval by the park superintendent. Only NPS regional directors or Washington Office associate directors with museum collections responsibility can approve destructive sampling of rare or highly significant specimens.
- b. LTRR may recommend that a park seek approval for destructive sampling of rare or highly significant specimens or consumptive use. Procedures for parks to use in seeking regional director approvals are in the Cultural Resource Management Guideline (NPS-28), Chapter 9, available at <http://www.nps.gov/policy>
- c. LTRR will have the authority to loan specimens and associated records to other qualified institutions or organizations for the purposes of exhibit, research, scientific or exhibit preparation, analysis, photography, conservation or other requested services, other than a repository loan. Such loans must meet NPS loan conditions and the standards of LTRR.

- d. LTRR and the NPS units will ensure transferability of electronic data between their respective museum collections data management systems.

2. LTRR agrees to:

a. Do the following:

- i. Maintain ICMS catalog records (or any of its successors) for the specimens and associated records on loan according to the NPS *Museum Handbook* and *ICMS User Manual*.
- ii. Update catalog record fields designated by the NPS and annually submit a backup of any new or changed records in the ICMS database to the Key Official by July 31st each year.
- iii. Maintain information on NPS collections in LTRR databases, to maximize the accessibility of the specimens to researchers using LTRR databases. Maintain a retrievable reference to each specimen that includes:
 - a. The NPS catalog number
 - b. The name of "National Park Service" and the name of the national park system unit where the specimen was collected.
 - c. The identity of the location where the specimen was collected, by geographic locator and description (See restrictions in C.I.b.)
 - d. The scientific name of natural history specimens and object name of cultural specimens
 - e. Identification of the specimens as federal property and the National Park Service as "owner"
- iv. Record changes to all LTRR catalog records for park collections so that data may be imported to appropriate fields in ICMS. Submit (export) these changes electronically to the ICMS records that LTRR maintains so that they may be included in the backup provided under ii. of this section.

- b. Return collections to parks if specimens and associated records are delivered by the park without accession and catalog numbers and/or specimens lack

NPS labels, unless LTRR agrees, in advance, to provide these services after the initiation of this Agreement.

- c. Maintain any associated field records or copies in working proximity to the specimens.
- d. Work with the NPS to resolve any legacy issues pertaining to specimens collected prior to this Agreement.
- e. Recommend, to NPS, any park items that should be deaccessioned because they lack scientific, educational, historical, cultural, esthetic, or monetary value. Assist NPS (the park) in prompt completion of deaccession transactions once NPS (the park) has approved a deaccession.
- f. Report a loss to the lending park within 5 working days of determination of the loss. LTRR will record the loss in the records that it maintains for the specimen.
- g. Note damage or deterioration on the catalog record that LTRR maintains for each specimen or associated record and include these changes in the backup update sent each year to park units.
- h. Ensure that third parties to whom LTRR lends NPS specimens meet NPS collection standards. Lend only to qualified institutions as described in the NPS Museum Handbook, Part II, Chapter 5.
- i. Contact any institution to which an NPS specimen has been loaned if that specimen appears on the annual inventory to confirm its status.
- j. Report the following information annually to the NPS Key Official for the period of July 1 through June 30. Provide this report by July 31st.
 1. Any damage or deterioration that has occurred to specimens or associated records in the past year. The report should include photographs, as appropriate, and dates and other details of the occurrence. Organize the report by NPS catalog number, or if a catalog number is not assigned, by NPS accession number.
 2. The catalog numbers of all specimens loaned out in third-party loans; the name, address, telephone number, and email address of the loan recipient, and the duration of the loan.
 3. The catalog numbers of specimens and associated records that were on exhibit. Identify the exhibit title, location, and duration.

4. Number of NPS research requests and number of non-NPS research requests for each park.
 5. All annotations, including name of researcher, researcher's institution, date, and annotation notes, regardless of whether the annotation resulted in a change to the catalog record.
- k. Complete a random sample inventory based on a sample drawn from all cataloged NPS specimens and associated records at LTRR that are subject to this Agreement. Use the inventory procedures in ICMS for the NPS specimens, or equivalent random sample procedures. LTRR will randomly select and inventory 200 NPS specimens or 20 percent of the NPS specimens held, whichever sample includes fewer specimens. Certify completion of the annual inventory and report the summary findings on all missing and damaged specimens and other irregularities. Report this summary information for all specimens (NPS and non-NPS) covered by the subject inventories. If LTRR uses ICMS to complete the inventory, submit the completed and signed inventory. Send to the NPS Key Official the certification and report no later than July 31st each year.
3. NPS parks (units) agree to:
- a. Accession and catalog collections (specimens and associated records) into ICMS or its successor and supply NPS labels for specimens prior to delivery to LTRR, or reimburse LTRR for one or more of these services at a rate negotiated prior to finalizing the park loan agreement unless LTRR agrees in the loan agreement to assume this responsibility at no cost to NPS.
 - b. Once a specimen is received by and incorporated into the LTRR catalog (and such cataloging information provided back to the park units), include the LTRR identifiers in all correspondence. Failure to use the LTRR identifier is likely to result in any request being returned as unanswerable.
 - c. Destroy, or authorize LTRR to destroy, any collections judged to have no scientific, educational, historical or monetary value. Follow NPS deaccession procedures if these items have been accessioned.
 - d. Place collections on loan to LTRR. Designate the purpose as a repository loan for "storage and collections management" and record the loan in ICMS.
 - e. Enter the LTRR catalog identifier into ICMS or its successors when received.

- f. Amend the list of objects/specimens in an existing loan record in ICMS when additional items are loaned to LTRR under the same conditions. If the conditions change, add those changes to the conditions in the existing loan.
- g. Report and document a loss that occurs at LTRR following NPS procedures in *NPS Museum Handbook*, Part II.
- h. Record any damage or deterioration in the ICMS record for the affected specimen or associated records.
- i. Ensure that loan, exhibit, and research request statistics reported by LTRR are incorporated in each park's annual Collections Management Report.
- j. For items that appear on the park's annual inventory, note in the comments column any that are on loan to LTRR. Rely on LTRR to inventory these items according to the provisions of this Agreement.
- k. By September 15th annually, replace catalog records with the revised ICMS records that LTRR submits to the park or update ICMS catalog records with the changes that LTRR submits.
- l. Consider LTRR's recommendations for NPS to make repository loans of duplicates to a third party. Determine whether the proposed recipient institution is qualified and the loan is advantageous to NPS. If approved, document return of the duplicate to NPS by removing it from LTRR's loan, catalog the duplicate individually, and prepare a repository loan to the third party. Follow NPS loan procedures in *NPS Museum Handbook*, Part II, to document the loan.

B. Preservation and Protection

1. LTRR agrees to:
 - a. Provide storage conditions that meet or exceed NPS standards in the NPS Checklist for Preservation and Protection of Museum Collections and LTRR standards and keep NPS apprised of all standards that are not met by identifying them on the Checklist. (Storage conditions will have been generally met if approximately 95% of NPS standards are met.)
 - b. Provide any treatment to a level that meets or exceeds NPS standards in the *NPS Museum Handbook*, Part I, and LTRR's standards. Document the treatment on catalog records that LTRR maintains for park specimens, forwarding such records for inclusion by the park unit into ICMS and other catalog records.

2. NPS parks (units) agree to:

Submit specimens in accordance with LTRR accession standards; specifically, without disease, infestation, fungi, or immediate need of conservation treatment, unless previously agreed to in writing. LTRR may refuse collections afflicted by the above, or negotiate to bring materials up to an acceptable state for inclusion in the LTRR collections.

C. Access and Use

1. Both Parties agree that:

- a. Specimens covered by this agreement may be used for scientific, environmental, conservation or educational purposes only. Specimens will not be used for commercial or other revenue-generating purposes without the prospective user first having entered into a separate agreement with NPS.
- b. LTRR will maintain the specimens and associated records so that the public will have access to them in accordance with NPS laws, policies and procedures. Temporary delay of up to five years for public access to specimens, meta-data and data is specifically authorized for LTRR personnel's Active Research Collections, as defined in section II. H of the Repository Agreement. At the end of the five-year period, LTRR will provide originals or copies of the associated records to NPS, if not previously provided under terms of the permit. These originals or copies shall become federal property and be governed accordingly by this Agreement. All records that are government property are subject to the Freedom of Information Act (FOIA) (5 USC 552), but protected information must be withheld from non-Federal entities, as appropriate, to comply with Section 207 of the National Parks Omnibus Management Act (16 USC 5937), the Federal Cave Resources Protection Act of 1988 (16 USC 4301-4309), or any other Federal statute requiring withholding under FOIA. (See NPS *Museum Handbook*, Part I, Chapter 2, Section H, Other Legal and Sensitive Issues.) In cases where LTRR believes that making protected information available to a third party would be beneficial, LTRR will provide NPS with its analysis regarding the benefits and detriments of having the protected information released to the public and will suggest to the third party that it petition the NPS for access to the information.

Absent specific instructions from the Superintendent, LTRR will not place the following data on publicly accessible portions of LTRR's catalog records and specimen labels, or otherwise make these data publicly available:

- 1) Data noted as restricted on the NPS catalog record
- 2) Collector's private address and private contact information
- 3) Monetary valuation
- 4) Archeological site location data restricted under ARPA, Section 9.

Unless the NPS Director specifically determines and the park gives written notification to LTRR that release is appropriate, LTRR must withhold, from any form of release to non-Federal entities, information on the *nature* and *specific location* (including exact site of collecting) of

- 1) a national park system resource that is endangered, threatened, rare, or commercially valuable
- 2) an object of cultural patrimony (for example, archeological and ethnographic objects and objects important to culturally associated groups) within the national park system.

Following consultation with and authorization by the park superintendent, LTRR may release location information in a more generalized format such that its release will not reveal the specific location of the qualifying resource.

2. LTRR agrees to:

- a. Provide NPS full access to park collections (specimens and associated records) and related information sources at any time during regular working hours, subject to use and handling restrictions in this Agreement, and appropriate advance notice.
- b. Make specimens physically available to researchers and NPS staff, subject to use and handling restrictions identified in this Agreement, in the NPS catalog record, in NPS policies, including the *NPS Museum Handbook*, and in LTRR's policies.
- c. Make information about specimens available from ICMS and LTRR's specimen database, if different, subject to LTRR's data access policy and restrictions in this Agreement, in the NPS loan agreement, and on the catalog record.
- d. Allow destructive sampling that does not compromise the scientific value of the collection according to terms of a written valid research proposal; file the research proposal that LTRR receives, accepts, and maintains in files associated with the specimen; record a description of the destructive

sampling and the research results in the catalog record that LTRR maintains for the specimen. (See Museum Handbook, Part III (Museum Collection Use), Chapter 1, Part C5).

- e. Cite in submitted publications about park specimens, "National Park Service," park name, specimen name, and NPS catalog number. Publications include paper-based and electronic media (including the Web).
- f. Notify NPS if a user identifies a potential commercial application for research results from use of NPS specimens. Ensure that parties proposing to use research results for commercial or other revenue-generating purposes have entered into a benefits-sharing agreement with NPS before making the commercial application. LTRR will include a provision in loan, research and other agreements and permissions directing the user to contact NPS to develop a benefits-sharing agreement prior to any commercial application of research results. The wording to be included in such loans and agreements is as follows:

If you identify or intend to develop a potential commercial or revenue-generating application of research results based on the covered National Park Service (NPS) specimens, you must immediately notify the LTRR contact and the NPS superintendent of the park where the specimens were collected. Contact information for park superintendents is searchable by park name on the Web at <http://data2.nps.gov/npsdirectory/>. The superintendent will provide information on entering into a benefits-sharing arrangement with NPS. Such an arrangement is required prior to any commercial application of research results arising from use of NPS specimens.

- g. Instruct researchers to follow generally accepted annotation procedures and to use the NPS annotation label, available from parks or ICMS, when an annotation label is needed.
- h. Upon request of the lending park, return specifically identified specimens to the park for valid research or litigation purposes.

3. NPS parks (units) agree to:

Document loaned specimens that LTRR returns at the park's request for research or litigation purposes by amending the list of objects that is part of the park's loan agreement. When the park use is concluded, return the specimens to LTRR, amending the list of objects to again include these specimens in the repository loan to LTRR.