

## Project Summary

### Rocky Mountains Cooperative Ecosystem Studies Unit

**Project Title:** NPS, Intermountain Region Treaty Research Project (Phase 1)

**Discipline:** Cultural Resources

**Type of Project:** Research

**Funding Agency:** National Park Service

**Other Partners/Cooperators:** University of Colorado at Boulder

**Effective Dates:** 8/1/2014 - 12/31/2018

**Funding Amount:** \$117,065

**Investigators and Agency Representative:**

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Investigator: Kristen Carpenter, Professor of Law; Co-Director, American Indian Law Program, University of Colorado, Wolf Law Building, 401 UCB, Boulder CO, 80309; kristen.carpenter@colorado.edu

**Project Abstract:** This four-year project will support professional academic legal and anthropological research to investigate American Indian treaty based associations with all Intermountain Region National Park Service units. The study will help the NPS fulfill its obligation to inventory and document critical information about resources and to make the information available to park managers, tribes, researchers, and visitors (as appropriate). The research will be conducted under a CESU agreement with a university that has unique expertise in the fields of Federal Indian Law and anthropology and will include an interdisciplinary approach using methodologies ranging from archival and legal research to ethnographic field interviews.

The United States government negotiated hundreds of treaties with American Indian tribes between 1778 and 1871. The treaty agreements were negotiated between the executive branch of the U.S. government on behalf of the president and subsequently ratified by Congress. Rights retained through treaties included the rights to continue to access, fish, gather, and hunt on lands ceded to the U.S. - many of those lands are now included within the boundaries of Intermountain Region, National Park Service units.

Reserved treaty rights are not a special right that courts have granted certain tribes; rather they are legal usufructuary rights retained by tribes at the time the treaties were signed - the tribes already had the rights prior to signing the treaties. Treaty rights are also tribal versus individual rights. They are held and regulated by the treaty signatory tribes themselves in their capacity as sovereign nations. Unless the reserved rights have been abrogated by Congress since the time the treaty was signed, they remain in effect. Information about which treaties cover lands and resources that are now managed by the NPS, and which tribes are identified in the treaties relevant to each NPS, IMR unit is critical baseline information that the NPS needs in an accessible format for park management, planning, and resource management purposes.

The canons of Indian Law as established by the U.S. Supreme Court assert: 1) treaties must be liberally construed to favor Indians; 2) ambiguous expressions in treaties must be resolved in favor of the Indians; 3) treaties must be construed as Indians would have understood them at the time they were negotiated; 4) treaty rights legally enforceable against the United States should not be extinguished by mere implication, but rather explicit action must be taken and clear and plain language used to abrogate (or abolish) them. Because IMR is in the heart of Indian Country, this research concerning American Indian tribes and treaty rights is critical, baseline information needed by the region as a whole.

**Outcomes with Completion Dates:**

Database, Collections/Specimens, Archives, and Maps provided to the NPS ATR or Technical Expert - 6/30/18

Draft Final Report - 12/31/17

Final Report - 6/30/18

**Keywords:** American Indian treaty, legal research, anthropological research, Intermountain Region National Park Service, University of Colorado at Boulder