

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE MEETING**

THURSDAY, NOVEMBER 19, 2015

VOLUME 2

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE MEETING**

8:30 a.m.

Thursday, November 19, 2015

Riverwind Hotel and Casino

Club, Diamond, Heart and

Spade Room

Norman, OK

COMMITTEE MEMBERS PRESENT:

Mr. Armand Minthorn - Chair

Ms. Heather Edgar

Ms. LindaLee (Cissy) Farm

Mr. Patrick Lyons

Mr. Dennis O'Rourke

Mr. Steve Titla

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1 **CALL TO ORDER**

2 MELANIE O'BRIEN: Mr. Chair, would you like to
3 call the meeting to order?

4 ARMAND MINTHORN: Okay. We'll call the meeting
5 to order at 8:30. Today is Thursday, November 19.
6 Just like with every meeting, we always try the
7 best we can to open with invocation or prayer, and
8 we'll do that this morning. I'm going to ask the
9 Elder here if he can lead us in prayer this
10 morning.

11 **OPENING INVOCATION**

12 MARIO GARZA: (Native American language.) Our
13 Creator, we thank You for bringing us here together
14 this morning. We ask for Your guidance. We ask
15 for You to guide us, guide the committee to make
16 some good decisions. We ask You to bring the
17 Native people that are here to come together in
18 fellowship and friendship. We ask You for Your
19 guidance, and we thank You for Your blessings.
20 (Native American language.)

21 ARMAND MINTHORN: Melanie.

22 **ACTION ITEM: SUBCOMMITTEE DISCUSSIONS AND**

23 **APPOINTMENTS**

24 MELANIE O'BRIEN: Okay. The first item on the
25 agenda this morning is a discussion by the Review

1 Committee of its subcommittees and any changes or
2 appointments that need to be made to that
3 subcommittee list.

4 The committee should have a copy of the
5 current subcommittees that were formed as of your
6 last meeting. As you are all aware, there have
7 been some changes in your membership since the last
8 meeting, and you might want to take a look at
9 appointing new members to some of these
10 subcommittees.

11 The first subcommittee that was formed at the
12 March meeting, I believe, was a subcommittee to
13 draft the 2015 report to Congress. The membership
14 of that committee is currently Dennis O'Rourke.
15 The other committee member was Shannon O'Loughlin.
16 I'll let you take it from here, Mr. Chair.

17 ARMAND MINTHORN: So currently, Melanie, we
18 have five subcommittees? Four?

19 MELANIE O'BRIEN: We have on record a total of
20 seven.

21 ARMAND MINTHORN: Seven?

22 MELANIE O'BRIEN: Yes.

23 ARMAND MINTHORN: Well, I guess a question for
24 the committee is do we need all of these
25 subcommittees?

1 Dennis?

2 DENNIS O'ROURKE: I think some of the
3 subcommittees we don't need any longer. My own
4 preference - I'll just state it for further
5 discussion - is that we could - I mean we certainly
6 need some subcommittees where subcommittees act and
7 bring information and things back to the committee.
8 I think if we met a little more regularly as a
9 committee of the whole or a subcommittee of the
10 whole, through telephonic meetings throughout the
11 year, we could accomplish more, rather than having
12 so many subcommittees. That's just my opinion. I
13 would also just note to further the discussion that
14 we have had a subcommittee on dispute procedures.
15 Maybe that's still necessary, although we have
16 finalized the dispute procedures, and the
17 subcommittee's work mostly was to draft and bring
18 those to the committee. So I don't know if that's
19 necessary.

20 ARMAND MINTHORN: Any more discussion?

21 Cissy.

22 LINDALEE FARM: Yes, I agree with Dennis that
23 it would probably be more productive to have
24 subcommittees of the committee of a whole, and to
25 meet more regularly as that subcommittee

1 telephonically to discuss some of these issues. I
2 also agree that the subcommittee on the dispute
3 procedures is probably no longer necessary, since
4 the goals of that committee have been accomplished.
5 And we have much gratitude to Sonya Atalay, a
6 former member, for all of her hard work that she
7 did on that committee. And we can have further
8 discussion on the other subcommittees, but I do
9 agree that a subcommittee of the committee of the
10 whole will function and be more productive than
11 having a lot of these other subcommittees.

12 ARMAND MINTHORN: So I guess I would agree with
13 Cissy, just as too the subcommittee on the issue of
14 balance, do we need this committee?

15 DENNIS O'ROURKE: I personally don't think so,
16 but that's up for other discussion.

17 ARMAND MINTHORN: Okay.

18 STEVE TITLA: I second that motion.

19 ARMAND MINTHORN: Cissy?

20 LINDALEE FARM: I would concur that we do not
21 need that.

22 ARMAND MINTHORN: Okay. Let's strike that one.

23 Subcommittee on lands for reburial?

24 Understanding, Melanie, that past discussions on
25 this were to look – or not look, but to discuss

1 Federal lands as far as reburying ancestors on
2 Federal lands. Is that correct?

3 MELANIE O'BRIEN: That's correct. And you
4 have, as a committee, received a report. You
5 received it in draft form at your last meeting and
6 you have it in final form at this meeting,
7 particularly about that issue of lands for reburial
8 through Federal agencies and what capacities
9 different Federal agencies have. So that is
10 included in its final form as a part of your
11 meeting materials. The subcommittee was created in
12 part to review that report and to make any
13 recommendations to the larger committee related to
14 the content of that report.

15 ARMAND MINTHORN: Well, it would seem that the
16 subcommittee on lands for reburial could be
17 addressed by the committee, rather than a
18 subcommittee.

19 DENNIS O'ROURKE: I agree.

20 ARMAND MINTHORN: Okay. So let's strike
21 subcommittee on lands for reburial.

22 Subcommittee to consider ambiguities in the
23 statute?

24 MELANIE O'BRIEN: Yes, sir.

25 ARMAND MINTHORN: Do we need this subcommittee,

1 committee?

2 DENNIS O'ROURKE: I don't feel strongly about
3 it. Again, I think to the degree that we identify
4 ambiguities that should be addressed we can and
5 maybe should do that as maybe a subcommittee of the
6 whole through full discussion.

7 ARMAND MINTHORN: Cissy?

8 LINDALEE FARM: I would concur. That could be
9 one of the agenda items for the subcommittee on the
10 committee of the whole to talk about the
11 ambiguities as they come up or as the individual
12 members feel that there are ambiguities.

13 ARMAND MINTHORN: Okay. So do we want to keep
14 this committee?

15 LINDALEE FARM: Chair, I guess my sense is I
16 think the issue should be kept alive, but I don't
17 think there's a necessity for having a separate
18 subcommittee to address that.

19 ARMAND MINTHORN: All right. And again, this
20 would probably be similar to Federal lands. If
21 there's any differences or concerns about the
22 statute, it should be discussed as a whole by the
23 committee. So Melanie, we'll strike this
24 subcommittee as well.

25 Subcommittee on reports, culturally

1 unidentifiable and -

2 MELANIE O'BRIEN: Yes, that subcommittee was
3 developed in relation to the two reports that the
4 National NAGPRA Program has produced, looking at
5 inventories. I think that the intent of that
6 committee was to assist the National NAGPRA Program
7 if we needed it, in any efforts at creating that
8 report or communicating with the institutions and
9 agencies listed on those reports. In addition, at
10 your last meeting in March, there was some
11 discussion about how those two reports might be
12 used in conjunction with developing guidelines for
13 museums and Federal agencies on consultation
14 related to the content of those two reports.

15 ARMAND MINTHORN: Well, just what Melanie has
16 outlined in these two reports, and certainly we
17 heard about those reports yesterday. Again,
18 there's some similarities here that these reports
19 need to be dealt with by the full committee rather
20 than the subcommittee.

21 DENNIS O'ROURKE: I think that would be
22 productive.

23 ARMAND MINTHORN: Okay, Melanie, all the heads
24 are shaking here. So let's strike the subcommittee
25 on the culturally unidentifiable and the CA.

1 MELANIE O'BRIEN: Okay.

2 ARMAND MINTHORN: And then number seven,
3 subcommittee to arrange meeting with the Assistant
4 Secretary? Carla, can you help us on this one?

5 MELANIE O'BRIEN: I'm sorry. I'm back. I'm
6 sorry, we were discussing which one? The final
7 one. Right, to arrange a meeting with the
8 Assistant Secretary for Indian Affairs. Again the
9 intent here was for a small group, representing the
10 committee to arrange to travel to Washington and
11 meet with the Assistant Secretary for Indian
12 Affairs to discuss issues related to the committee
13 and to your work here.

14 ARMAND MINTHORN: Well, yesterday, the lady
15 that was here, Cheryl, we expressed that very
16 invitation to not only have [the Assistant
17 Secretary - Indian Affairs] come here, but also to
18 Cheryl as well. It was expressed many concerns
19 that the committee has, as far as budget, etcetera,
20 etcetera. So again, it would seem that if there
21 were a group or a portion of this committee that
22 would make that visit, certainly we could decide
23 with you and with the participants that come to the
24 meeting. We certainly don't need to have a
25 subcommittee to decide that.

1 CARLA MATTIX: I think the only issue of having
2 the smaller group hold the meeting with the
3 Assistant Secretary is that the full committee
4 would have to approve the topics of discussion for
5 that smaller group, and that maybe that was the
6 intent behind having the subcommittee figure that
7 out and then bring that to the whole committee for
8 the whole committee's approval.

9 ARMAND MINTHORN: Well, the only thing about
10 that, Carla and Melanie, is schedule and
11 availability. It's going to be kind of Catch 22,
12 trying to confirm and see which committee members
13 can make such a meeting. So that would be the
14 challenge. But as far as the agenda and topics
15 with the Assistant Secretary, that's fairly easy
16 what those would be. But the challenge is which
17 committee members would be able to do that.

18 LINDALEE FARM: Mr. Chair?

19 ARMAND MINTHORN: Cissy.

20 LINDALEE FARM: I think one of the reasons for
21 having that subcommittee was so that it didn't get
22 lost in the shuffle, so that someone took on the
23 responsibility to actually arrange for the meeting
24 and to move forward with setting it up. And
25 perhaps with the introduction to Ms. Andrews-

1 Maltais yesterday, that was helpful and sufficient
2 and that there can be some follow through. And I
3 don't know if it's necessary for the Review
4 Committee to have a subcommittee to do that or if
5 there can be follow up through the Program or
6 coordination with the Program and individuals or
7 with the chair to actually follow through on that.

8 MELANIE O'BRIEN: We can certainly take that up
9 for the committee and arrange the details in terms
10 of identifying a time that the Assistant Secretary
11 might be available, as well as whoever among you
12 might be available. As Carla mentioned, the
13 important thing for you to do as a committee in
14 this setting is to identify those issues that you
15 want to address with the Assistant Secretary. I
16 would recommend perhaps as you work on the report
17 to Congress that identifies specific issues you
18 want to address to Congress, that you might take a
19 vote to agree that those are the same topics or
20 issues that you might want to address with the
21 Assistant Secretary.

22 LINDALEE FARM: That being said, I guess there
23 is no need for the subcommittee. That would be my
24 sense.

25 ARMAND MINTHORN: I would agree. Okay, again,

1 Melanie. All the heads are shaking.

2 Number one, subcommittee on report to
3 Congress?

4 DENNIS O'ROURKE: Well, I'm going to be
5 speaking about that in just a moment. I'm the sole
6 member of that subcommittee at the moment.
7 Somebody has to draft that thing. I wouldn't mind
8 - I think it has been tradition on the committee in
9 the past, I was the junior member of that
10 subcommittee until Shannon O'Loughlin left the
11 committee, and the responsibility fell to me to
12 prepare that for the committee. I wouldn't - I
13 think it might be appropriate to have a second
14 person on that, with the expectation that me and
15 one other person would not only complete the
16 preparation but certainly anticipate the
17 preparation of it next year.

18 ARMAND MINTHORN: I would agree, Dennis.
19 Volunteers? Are you volunteering?

20 PATRICK LYONS: Mr. Chair, I am volunteering.

21 ARMAND MINTHORN: Okay. All right. So we do
22 have two members here, Melanie, for the report to
23 Congress.

24 MELANIE O'BRIEN: Thank you. Stepping back for
25 a minute to your subcommittee of the whole, is it

1 my understanding that you would like to arrange
2 regular teleconferences of that subcommittee that
3 you might meet by telephone in between this meeting
4 and your next public meeting?

5 ARMAND MINTHORN: Yes.

6 MELANIE O'BRIEN: And would you like for the
7 Program to arrange those teleconferences for you?

8 DENNIS O'ROURKE: I think that would be useful.

9 MELANIE O'BRIEN: We'd be happy to do that for
10 you.

11 ARMAND MINTHORN: Okay. Thank you.

12 Okay. Melanie, anything else on subcommittee?

13 MELANIE O'BRIEN: No, I think that takes care
14 of that item.

15 ARMAND MINTHORN: Okay. Moving on.

16 MELANIE O'BRIEN: The next item is an initial
17 discussion of your – the Review Committee's 2015
18 report to Congress. Just for your information and
19 those in the audience, I'll remind you that you
20 report to Congress annually on a calendar year
21 basis. So your report should cover the activities
22 of the Review Committee from January to December
23 2015, which would include the March meeting held in
24 Amherst, Massachusetts, and this meeting here in
25 Oklahoma.

1 **ACTION ITEM: INITIAL DISCUSSION OF THE REVIEW**
2 **COMMITTEE 2015 REPORT TO CONGRESS**

3 DENNIS O'ROURKE: I think it falls to me to
4 present some material to initiate some discussion
5 or what has transpired so far. As the committee
6 knows, a draft - a rough draft of a report to
7 Congress was circulated to the committee prior to
8 the committee meeting. I received some feedback
9 from other committee members regarding revisions.

10 Historically, the reports have sort of had the
11 same structure and flavor and oftentimes the same
12 message, and that's likely to be true this time
13 simply because the barriers encountered and the
14 recommendations for overcoming those barriers don't
15 change much from year to year, and we still view
16 them as important.

17 The one major change in the report this year
18 is simply structural. In the past, there has been
19 a recitation of several pages of the committee's
20 activities over the year, and then the report
21 concluded with significant barriers encountered by
22 the Program, the Review Committee, tribes, Native
23 Hawaiian organizations, agencies, museums,
24 etcetera. And then concluding with a list of
25 recommendations. We've changed it this year, at

1 least so far. We've put those problems, the
2 barriers encountered, at the very front of the
3 report, following an executive summary, an
4 abbreviated executive summary. The logic being
5 that reports to Congress may not often get the
6 attention that we would like them to, and that
7 burying our message at the end might not be the
8 best strategy. So we've moved those important
9 issues to the front of the report. I would just
10 like to read the list of barriers that are included
11 in the report and the brief list of recommendations
12 to Congress so that anyone can add to those. I'll
13 be happy to edit and add materials to the report,
14 but let me just go through the section on barriers
15 encountered, which now in the current draft of the
16 report begins the second paragraph of the report.

17 So the first one is lack of adequate staffing
18 and support, and that's to both the National NAGPRA
19 Program itself, to the Review Committee, and to
20 tribes and Native Hawaiian organizations, museums
21 and Federal agencies. And the lack of funding is
22 seen as a serious impediment to full implementation
23 of the Act.

24 There is a section on failure to properly
25 report inventories from museums and agencies.

1 There are three components of that. These were all
2 identified in last year's report, and I've elected
3 to keep them in until I get feedback from others
4 about whether or not this is still perceived to be
5 important issues. One of these is failure to
6 properly inventory federally controlled collections
7 that are curated in non-Federal repositories. We
8 have seen some movement and progress on this in
9 reports presented yesterday. A second is failure
10 to properly report the scope of consultation
11 activities with lineal descendants, Indian tribes,
12 or Native Hawaiian organizations regarding
13 culturally unidentifiable remains and funerary
14 objects. A third is failure to submit Notices of
15 Intent to Repatriate for culturally affiliated
16 human remains and funerary objects. And each of
17 these topics, there is some verbiage, a paragraph
18 or two explaining in more detail and providing
19 examples, the issues of why these remain
20 impediments to the full implementation of the Act.
21 So there is documentation. This isn't just a
22 listing of issues.

23 Another independent topic that is viewed as –
24 has been viewed in the past as a barrier, an
25 impediment, is lack of appropriate locations for

1 reburial. And I have some verbiage related to
2 that. We'll add to that and revise it with the
3 report we hear at this meeting. There – in the
4 past, and I would seek guidance from attendees and
5 certainly other Review Committee members. In the
6 past, there has been a section in barriers relating
7 to additional layers of administrative review by
8 the National Park Service. I personally don't
9 recall hearing much about that in discussion in the
10 last year or so, and I don't know if that still
11 needs to be a part of this report or not. I would
12 ask for some advice in this regard. And finally,
13 there is a short section on the possible need for
14 amendments to the Act and its regulations in order
15 to provide clarity. I have one example that has
16 come up for discussion at this meeting or among the
17 Review Committee members, but additional
18 information there might be useful. There's a short
19 section on progress, not nearly as long as the
20 barriers. That too will be revised as we receive
21 reports at this meeting.

22 And finally, the recommendations to Congress
23 have been fairly constant over the last couple of
24 years. I will just read the ones in the current
25 draft. One is to fulfill the statutory

1 requirements of NAGPRA by providing adequate and
2 consistent staffing and support to the National
3 NAGPRA Program. Two, continue to support and
4 increase grant funding, especially to Indian tribes
5 and Native Hawaiian organizations, that will build
6 institutional capacity and meet the requirements of
7 Congressional policy of Indian self-determination.
8 Three, to enact legislation to further and
9 consistently protect Native American burials by
10 providing methods to protect public lands or allow
11 tribes to acquire public lands in order to provide
12 areas for reburial. Four, to support broader
13 opportunities for reburial of Native American
14 ancestors on Federal lands, including National
15 Parks. Five, support Federal agency compliance
16 with NAGPRA, including expedited completion of
17 inventories of Federal collections in non-Federal
18 repositories. And finally, support stronger
19 enforcement measures by the Review Committee and
20 the National NAGPRA Program, as well as the
21 Secretary of Interior to better deal with
22 compliance issues.

23 My plan is to elaborate a bit on each of those
24 by either providing examples or some additional
25 explanatory material. I'm hesitant to try to write

1 too much regarding each of those, mostly because I
2 think the longer and wordier the document gets, the
3 less impact it's likely to have. That's my
4 personal view, and I'm open to suggestions.

5 PATRICK LYONS: Mr. Chair, may I?

6 DENNIS O'ROURKE: Yes.

7 PATRICK LYONS: I would just like to start by
8 saying thank you to Dr. O'Rourke for all of that
9 great work, and I would say that in my view it's
10 really pretty focused, what's in there right now.
11 That's all I would say at this point.

12 ARMAND MINTHORN: Dennis, this report, this
13 draft report to Congress and as it relates to last
14 year's report to Congress, there is some
15 similarity. Too, it would be worth considering how
16 this report could be shortened, as well. And if we
17 as a committee here today can possibly work toward
18 a final draft today that would be great.

19 DENNIS O'ROURKE: I completely agree, and I
20 will say I'm very concerned about length. The
21 initial draft was substantially longer. It's been
22 pared down by a third. I see places where I think
23 I can make edits and change the wording, and
24 actually Patrick has provided me some editorial
25 suggestions that I think will help in that regard.

1 I would like to see it shortened as well, and I'm
2 going to work toward that by focusing it even more
3 and shortening some of the verbiage in the report.

4 ARMAND MINTHORN: Well, just to add, Dennis,
5 item four, amendments to the Act, again, this is
6 the statute where it cites associated funerary
7 objects and unassociated funerary objects and their
8 disposition and the discretion that Federal
9 agencies, museums and universities have to
10 repatriate or not repatriate.

11 DENNIS O'ROURKE: Thank you. If you could
12 provide some wording for me there so it's stated in
13 a way that's clear and informative, I'd appreciate
14 it.

15 ARMAND MINTHORN: Okay. Carla, it is in the
16 statute. What part of the statute is that?

17 CARLA MATTIX: (Inaudible comment.)

18 ARMAND MINTHORN: Yes.

19 CARLA MATTIX: We were just discussing what you
20 might be able to do. We were discussing how you
21 might be able to finish working on this, perhaps at
22 lunch, with your subcommittee to work out the
23 wording changes.

24 ARMAND MINTHORN: Okay.

25 CARLA MATTIX: Because you're going to have

1 another time in the agenda this afternoon to work
2 on this as well, so some of the wording changes
3 could be worked on at lunch time.

4 ARMAND MINTHORN: Okay.

5 DENNIS O'ROURKE: All right. That's good.

6 ARMAND MINTHORN: But Dennis, again, that would
7 be just an example of the report that would include
8 or address amendments to the Act.

9 STEPHEN SIMPSON: Sure. And to answer your
10 question, Mr. Chair, the mention of culturally
11 unidentifiable human remains is in section 8 (c) of
12 the statute, which is one of your list of duties.

13 ARMAND MINTHORN: Okay. Steve.

14 STEVE TITLA: Chairman, regarding the question
15 by Mr. O'Rourke regarding additional layers of
16 administrative review by the National Park Service,
17 he asked whether that should remain. I think that
18 that should remain in the report because I think
19 that by the National NAGPRA Program, we're within
20 the National Park Service, and that adds some
21 additional layer of bureaucracy and expenses to the
22 Program, and the reasons put there are still valid,
23 I think, even though we may not have discussed it
24 recently. This situation causes notices,
25 recommendations from the Secretary and other

1 implementation activities to be delayed. I think
2 that if the National NAGPRA Program were by itself,
3 then that might better serve the Program, being
4 directly under the Secretary of the Interior. So I
5 would recommend that that remain in the report.

6 DENNIS O'ROURKE: Thank you, Steve. That's
7 exactly the kind of feedback I was hoping for.

8 ARMAND MINTHORN: Okay. So as far as the
9 report, Dennis, we're moving forward. And if we
10 can make time this afternoon to come back and
11 possibly look at a final draft.

12 DENNIS O'ROURKE: Sure. We'll do our very
13 best. I'm hoping we can do that.

14 ARMAND MINTHORN: Okay. All right. Anything
15 else on the report to Congress?

16 PATRICK LYONS: Mr. Chair, may I ask a
17 question?

18 ARMAND MINTHORN: Sure.

19 PATRICK LYONS: As a new member of this body,
20 but as someone who has served on the Society for
21 American Archaeology Repatriation Committee, I know
22 that in the past there's been discussion on and off
23 about amendments to the definition of Native
24 American in the statute. Is that a topic that this
25 body has addressed or may address in these

1 recommendations?

2 CARLA MATTIX: That is a topic that has come up
3 in the past. I don't know if it's in the current
4 version? Can you hear me? I'm not sure - it is a
5 topic that has been addressed in the past, and
6 there has been quite a bit of discussion about it.
7 I don't know if it's in the current version.

8 DENNIS O'ROURKE: It is not in the current
9 version.

10 PATRICK LYONS: Thanks.

11 ARMAND MINTHORN: Okay. Melanie, anything
12 else?

13 MELANIE O'BRIEN: I would just recommend that
14 anyone who is here that would like to give
15 information to the Review Committee about any of
16 these barriers or recommendations should
17 participate in the public comment period that we
18 have this afternoon. That is in particular why we
19 have those open slots for public comment, so that
20 the public can hear what the Review Committee is
21 considering and make any comments that they would
22 like to regarding that report to Congress.

23 ARMAND MINTHORN: Okay.

24 MELANIE O'BRIEN: I would also just like to
25 make one recommendation to the committee related to

1 some of these topics. I would like to remind you
2 and state again very clearly that over the last
3 year we had a significant increase in the number of
4 applications for NAGPRA grants. It was almost a 67
5 percent increase in the number of requests for
6 funding. And while certainly there are staffing
7 issues within the National NAGPRA Program, we have
8 a plan to address those, and we have guaranteed
9 support from the National Park Service to fill
10 those vacancies. I would encourage the committee
11 to think about the structure of that barrier and
12 what is listed first when you're discussing the
13 lack of staff and support. It is clear to me that
14 there's a great need for additional funding for
15 NAGPRA constituents who are trying to fulfill their
16 NAGPRA responsibilities. That's why they're
17 applying for grants through the National NAGPRA
18 Program, and there is clearly a demonstrated need
19 there from both tribes and museums for additional
20 funding through the NAGPRA grant program.

21 PATRICK LYONS: May I ask a clarifying
22 question, Chairman?

23 ARMAND MINTHORN: Sure.

24 PATRICK LYONS: So does that – may I restate
25 that and try to make sure that I understood what

1 you said? So relative to the priorities that have
2 been expressed so far in the draft report, the
3 assessment of National NAGPRA is that the priority
4 in terms of being able to have good compliance
5 would be more funding toward the grant program?

6 MELANIE O'BRIEN: That's correct.

7 PATRICK LYONS: Thank you.

8 STEVE TITLA: Chairman?

9 ARMAND MINTHORN: Yes, Steve.

10 STEVE TITLA: I agree with Madam DFO's
11 statement about more funding for the grantees, and
12 I will talk about what I know about in the nation.
13 I'm from Arizona, and the Apache, from San Carlos
14 Apache Tribe. I know that the Western Apache
15 group, composed of the White Mountain Apache, San
16 Carlos Apache, Yavapai Nation, Tonto Apache. Those
17 tribes are always trying to get funding, and they
18 apply every year, so I know the need for that. And
19 so I think that the priority for grantees is
20 paramount in our area, and so I would recommend
21 that we put that as number one in the barriers that
22 we have. Thank you.

23 ARMAND MINTHORN: Okay. Anything else,
24 Melanie?

25 MELANIE O'BRIEN: No, that's the end of my

1 comments related to your report. If there are
2 additional items you want to discuss or take up at
3 this time, you do have time allotted now. I would
4 again recommend that perhaps if we are ahead of
5 schedule, which we are, that you might have
6 additional time over the lunch break for the
7 subcommittee to work on a draft and then there is a
8 slot this afternoon where you could take action on
9 that draft report. It is structured so that the
10 subcommittee should do the work on that report.
11 However, they're not restricted from inviting the
12 rest of you to join them as they work through that
13 draft during lunch.

14 ARMAND MINTHORN: Okay.

15 MELANIE O'BRIEN: So we are a bit ahead of
16 schedule, but our next presentation is ready. The
17 next item on the agenda is an action item for the
18 Review Committee to hear a disposition request by
19 the National Park Service. Presenting to you is
20 Larry Turk, the Superintendent for Chaco Culture
21 National Historical Park.

22 **ACTION ITEM: CUI DISPOSITION REQUEST, NATIONAL PARK**

23 **SERVICE**

24 **PRESENTATION**

25 LAWRENCE TURK: Good morning, Mr. Chair,

1 members of the committee. My name is Larry Turk,
2 Superintendent of Chaco Culture National Historical
3 Park. With me today are Timothy Begay of the
4 Navajo Nation Historic Preservation Department, and
5 Karen Wurzburger, National Park Service
6 Intermountain Region Office of Indian Affairs and
7 American Culture. Leigh Kuwanwisiwma, the Director
8 of the Hopi Cultural Preservation Office, was
9 unable to join us in Oklahoma this week. This is
10 an executive summary of the request by the National
11 Park Service, Chaco Culture National Historical
12 Park, for a recommendation from the regional - from
13 the Review Committee in support of the proposed
14 disposition of the culturally unidentifiable
15 remains of two individuals and eight associated
16 funerary objects in the control of Chaco Culture
17 National Historical Park.

18 Now I'm going to turn it over to Karen
19 Wurzburger to present the details of this request.

20 KAREN WURZBURGER: Thank you, Larry.

21 Good morning, Mr. Chair and members of the
22 committee. Chaco Culture National Historical Park
23 proposes to transfer control of the remains and
24 funerary objects of two individuals jointly to the
25 Hopi Tribe of Arizona and the Navajo Nation of

1 Arizona, New Mexico & Utah. This summary
2 supplements the information provided to the Review
3 Committee in preparation for this meeting. Chaco
4 Culture National Historical Park is located in
5 northwestern New Mexico, in a remote canyon cut by
6 the Chaco Wash, inhabited from around 800 to 1200
7 A.D. The national monument was established in
8 1907, expanded to a national historical park in
9 1980, and added to the UNESCO World Heritage List
10 of Cultural Properties in 1987 to preserve the vast
11 network of archeological sites which compose the
12 extensive Pre-Columbian cultural complex. Many
13 present-day Indian tribe and Pueblo members are
14 descended from the Chacoans, and refer to Chaco
15 Canyon and its features in their traditional
16 histories and migration stories. Some tribes
17 regard the canyon as sacred ancestral land. The
18 descendants of Chacoan people remain connected to
19 and committed to Chaco Canyon through ongoing
20 traditions and government-to-government
21 consultation. Members of at least 25 Indian tribes
22 continue to consult, advise, and take an active
23 role in the stewardship of the park today. We are
24 grateful for the tribes' continued guidance and
25 collaboration on many of the ongoing projects at

1 Chaco.

2 In 1938, Chaco Canyon National Monument took
3 custody of two individuals and eight associated
4 funerary objects as part of the Harkness
5 Collection, believed to have been collected from
6 within a hundred-mile radius of Shiprock, New
7 Mexico. The Harkness Collection was initially
8 documented as a temporary loan, however no official
9 loan paperwork has been located and there were no
10 copies of correspondence with Mr. Harkness after
11 1938. In 1958, the National Park Service undertook
12 a serious pursuit of Mr. Harkness to discuss the
13 status of the loan, but he was unable to be located
14 and letters initiating contact were returned as
15 undeliverable. In 1959, the National Park Service
16 wrote to the General Services Administration
17 claiming title to the Harkness Collection through
18 voluntary abandonment on park land. Following a
19 three-year waiting period to allow Harkness or his
20 heirs to dispute the claim, the General Services
21 Administration determined in 1963 that the National
22 Park Service could consider the Harkness Collection
23 abandoned property with title vested in the
24 National Park Service.

25 Documentation for the Harkness Collection did

1 not include any specific dates of removal nor
2 information based - information regarding
3 archeological context and no provenience
4 information for these individuals. Because the
5 disposition of culturally unidentifiable human
6 remains under section 10.11 of the NAGPRA
7 regulations requires provenience information to
8 determine tribal land or aboriginal land and
9 because that information here is lacking with the
10 exception of the hundred-mile radius, we were
11 unable to follow the process set forth in NAGPRA
12 under section 10.11 for these individuals.

13 Physical anthropological and textile analysis
14 have determined these remains to be Native American
15 but have yielded conflicting information regarding
16 the age and potential cultural affiliation of these
17 individuals. A cranial analysis conducted in 1998
18 by Dr. Joseph Powell identified the remains of one
19 of the individuals as historic Navajo. In 2001, a
20 carbon-14 analysis of a textile bag associated with
21 the remains yielded prehistoric dates ranging from
22 350 to 50 B.C.E. Because of this inconsistency,
23 the park conducted a reassessment of the physical
24 anthropological data in 2002, which concluded that
25 the remains were most likely prehistoric

1 Basketmaker. Uncertainty and direct contradictions
2 in these analyses made it difficult for park
3 management to determine - to make a determination
4 on the likely age or cultural affiliation of either
5 of these individuals.

6 Over the past two years, Chaco Culture
7 National Historical Park has engaged in 3 separate
8 face-to-face tribal consultations with 18
9 traditionally associated tribes regarding these
10 individuals and their associated funerary objects.
11 An additional 13 tribes were contacted to consult
12 but were unable to participate in the face-to-face
13 consultations. With careful consideration of, one,
14 the lack of specific provenience or contextual
15 information for these remains; two, the conflicting
16 osteological and textile analyses yielding vastly
17 different date estimates; and three, the
18 information and recommendations provided by
19 consulting tribes, Chaco has determined these
20 remains to be culturally unidentifiable. Due to
21 their documented connections to and aboriginal
22 lands within the 100-mile radius noted in the
23 collection records for the Harkness Collection, the
24 Hopi Tribe of Arizona and the Navajo Nation of
25 Arizona, New Mexico & Utah have agreed to jointly

1 accept control of the two individuals and eight
2 associated funerary objects on behalf of all of the
3 consulting tribes. Ohkay Owingeh, New Mexico;
4 Pueblo of Acoma, New Mexico; Pueblo of San Felipe,
5 New Mexico; and Tonto Apache Tribe of Arizona have
6 provided letters in support of this disposition.
7 The consultation process, requests for repatriation
8 and letters of support constitute the agreement
9 among the consulting tribes. No consulting tribes
10 have expressed opposition to the joint disposition
11 to the Hopi Tribe and the Navajo Nation.

12 On behalf of Chaco Culture National Historical
13 Park and the National Park Service, we are
14 respectfully requesting a recommendation from the
15 Review Committee that the NPS move forward with the
16 proposed transfer of control of these two
17 culturally unidentifiable individuals and eight
18 associated funerary objects to the Hopi Tribe of
19 Arizona and the Navajo Nation of New Mexico -
20 Arizona, New Mexico & Utah. If the Review
21 Committee recommends proceeding and the Secretary
22 of the Interior concurs, disposition is expected to
23 take place in 2016 following the required public
24 notification.

25 Thank you all very much, and I will now turn

1 the mic over to Timothy Begay of the Navajo Nation
2 Historic Preservation Department, who has a few
3 words to share with you all, as well.

4 TIMOTHY BEGAY: Good morning, Chair and members
5 of the committee and audience. Today we come to
6 you for a simple recommendation of making what was
7 done wrong right and putting these remains back
8 into the ground where they belong. As you all are
9 aware from our neck of the woods, anytime you get
10 Navajo Nation and the Hopi Nation to agree it
11 should be taken as gospel, so you know, we come
12 simply to say we want these remains back in the
13 ground and that the remains continue on their
14 journey. So with that, we thank you for your time
15 and your understanding in this situation. (Native
16 American language.)

17 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

18 ARMAND MINTHORN: Question, Karen, during your
19 report there was a word that I would ask you for
20 clarification. The word "abandoned," never heard
21 that before in a report like this. Could you
22 explain a bit more on abandoned?

23 KAREN WURZBURGER: Yes, regarding the
24 collection that was - so my understanding was that
25 - and that was part of the collection history for

1 these remains is that these remains were placed on
2 a temporary loan back in the thirties to the
3 monument, and the loan paperwork, my understanding,
4 is not great. And so about twenty years later, the
5 Park Service realized that these - this collection
6 was still in their physical custody and so took
7 pursuit to try to locate the individual who had
8 loaned them and they were unable to find that
9 individual or any of his heirs, and therefore the
10 collection was determined by the General Services
11 Administration to be abandoned property, and that's
12 the terminology I believe GSA used and under which
13 the Park Service was able to kind of take legal
14 control of that collection.

15 ARMAND MINTHORN: So again, Karen, this report
16 is referencing two individuals and two unassociated
17 or associated?

18 KAREN WURZBURGER: Eight associated funerary
19 objects.

20 ARMAND MINTHORN: Oh, eight. Eight associated.

21 KAREN WURZBURGER: Yes.

22 ARMAND MINTHORN: All right. Committee?

23 STEVE TITLA: Chairman?

24 ARMAND MINTHORN: Steve.

25 **REVIEW COMMITTEE MOTION**

1 STEVE TITLA: Karen, Lawrence, Mr. Begay, I'd
2 like to commend you for a thorough report. It
3 sounds like you did consultations with all the
4 necessary parties in the region around the Chaco
5 Culture National Historical Park. I've heard a lot
6 about it, never been there but hope to get there
7 soon. At any rate, it sounds like you did the
8 necessary consultation and I wish that all parties
9 that come before us would make that kind of
10 thorough consultation with the tribes that's
11 necessary. I agree with our chairman. He said
12 that consultation is not a letter. It's not a
13 phone call. It's a face-to-face meeting like we
14 are talking today. So I commend you for a good
15 report and I make the motion that they are
16 requesting for this CUI disposition, Mr. Chairman.

17 ARMAND MINTHORN: Is there a second?

18 DENNIS O'ROURKE: I second the motion.

19 ARMAND MINTHORN: Discussion?

20 Just to add to what Steve was saying, this is
21 a good example of tribes working together. And
22 like you were saying, sir, gospel. It's good when
23 two tribes like this can work with each other and
24 decide with each other disposition for our sacred
25 human remains. And especially when the tribes can

1 have meaningful consultation and this consultation
2 resulted with this disposition, this action here
3 today. So I commend the Park Service for this here
4 due diligence and especially the consultation.
5 It's vital. It's key. It's important, and it does
6 - it never ends, consultation. So I commend you
7 and the Hopi and the Navajo for working for this
8 big result.

9 Any more discussion?

10 DENNIS O'ROURKE: Call the question.

11 ARMAND MINTHORN: All those in favor of the
12 motion raise your right hand.

13 MELANIE O'BRIEN: Those in favor, Dennis
14 O'Rourke, Steve Titla, Patrick Lyons, LindaLee
15 Cissy Farm, and Heather Edgar.

16 ARMAND MINTHORN: Those opposed?

17 Abstain?

18 Motion carries. Thank you.

19 KAREN WURZBURGER: Thank you.

20 MELANIE O'BRIEN: Next we have another
21 disposition request, this one brought to you by the
22 Tennessee Valley Authority. We have Patricia
23 Ezzell, who is the tribal liaison with the TVA.

24 **ACTION ITEM: CUI DISPOSITION REQUEST, TENNESSEE**

25 **VALLEY AUTHORITY (TVA)**

1 **PRESENTATION**

2 PATRICIA EZZELL: Thank you, Melanie. Good
3 morning, Mr. Chairman and members of the Review
4 Committee. My name is Pat Ezzell. I serve as the
5 Tribal Liaison for the Tennessee Valley Authority
6 or the TVA. I will be presenting this morning,
7 along with my coworker, Dr. Tom Maher. He is our
8 NAGPRA Coordinator. Observing with us is Ms.
9 Marianne Shuler, who is one of our staff
10 archaeologists. We would like to thank the NAGPRA
11 review board for this opportunity to present to you
12 today. We would also like to thank The Chickasaw
13 Nation for their hospitality that has been extended
14 to us while we have been here.

15 As we get started, I feel I need to introduce
16 you to TVA. You may remember us from your middle
17 school history class, but it's been a little while.
18 So TVA was established as a Federal corporation to
19 help develop the Tennessee Valley region. It was
20 established in 1933. The region that I refer to
21 includes all of Tennessee and parts of the six
22 surrounding states, Alabama, Georgia, Kentucky,
23 Mississippi, North Carolina and Virginia. We were
24 created during President Roosevelt's first one
25 hundred days of the New Deal to provide flood

1 control, navigation and affordable electricity to
2 the people of the region. By providing these
3 things, it was TVA's goal to improve the quality of
4 life of people in the Tennessee Valley. Now, while
5 our tasks have changed through the years, TVA's
6 fundamental mission as outlined in the TVA Act has
7 not changed. Today, as in 1933, we are still
8 committed to serving the people and improving the
9 quality of life in the valley in the areas of
10 energy, environment and economic development.
11 Certainly, energy is a central focus for us, but we
12 are much more than a power company. We also have
13 sweeping responsibilities for managing the
14 resources of the Tennessee Valley and being a
15 partner for economic growth and prosperity in our
16 region.

17 Now, TVA is a little unique in the world of
18 Federal agencies. Certainly, we're owned by the
19 people of the United States to serve the people.
20 We are governed by a nine-member policy making
21 board appointed by the President and confirmed by
22 the Senate. It's a part-time board. Our daily
23 operations are led by our President and CEO. One
24 of the things that make us the most unique in the
25 world of Federal agencies is that we are

1 financially self-supporting. We do not receive any
2 appropriated dollars. The TVA power system has
3 been financially self-supporting since 1959, and
4 our non-power operations such as our flood control,
5 our resource stewardship and our economic
6 development work, we have not received any taxpayer
7 funding since Fiscal Year 1999. These programs are
8 funded entirely by power sales. Again, that makes
9 us extremely unique as a Federal agency.

10 Now, when TVA was created in 1933, they went
11 to work building a system of locks and dams to
12 provide flood control and navigation with
13 electricity as a by-product. During the
14 construction of these locks and dams, hundreds of
15 archeological sites were excavated from Federal
16 land. TVA continued its power construction
17 building fossil plants and nuclear plants, which
18 also led to archeological excavations. I do want
19 to point out that it is primarily from these hydro
20 projects, these dam projects, that the majority of
21 our collections were excavated. At this time, I
22 want to turn the presentation over to Dr. Maher.

23 THOMAS MAHER: Thank you, and good morning. In
24 the 1970s, TVA was planning to build multiple
25 nuclear power plants simultaneously. TVA's plan

1 was to build 17 nuclear plant units; however, with
2 the recession of the 1980s and the decrease in
3 energy demand, many of TVA's nuclear plant projects
4 were deferred and then ultimately canceled.

5 Hartsville Nuclear Plant, located adjacent to the
6 Cumberland River in middle Tennessee was one of
7 these canceled plants. You can see it just barely
8 up there in the upper end as a little red dot. The
9 construction of the Hartsville Nuclear Plant was
10 canceled in 1984. You can see the outer shell of
11 one cooling tower had been completed by this time.

12 The Dixon Creek site, 40SM113, was first
13 identified during a surface survey of the planned
14 nuclear power plant in 1972. Additional survey and
15 excavations took place from 1974 to 1976. In April
16 1976, four test units were excavated. One test
17 unit revealed a single adult male interred in a
18 semi-flexed position in a 5- by 4-foot burial pit.
19 Two shell-tempered ceramic vessels were associated
20 with this individual. A reconstruction of the
21 excavations indicates that the Dixon Creek site was
22 occupied repeatedly from approximately 500 B.C.
23 through A.D. 1450. There are no radiocarbon dates
24 associated with these cultural items. The only
25 chronological evidence is provided by the two

1 funerary objects. One is a small shallow, thick-
2 walled shell-tempered bowl. The other is a broken
3 vessel with thin shell-tempered walls. It may have
4 been a water bottle, but it is missing its
5 distinctive cylindrical upper rim. Neither has any
6 exterior or interior surface decoration. This
7 burial seems to date from the Middle Cumberland
8 Mississippian period ranging from A.D. 1050 to A.D.
9 1450. TVA has both control and possession of these
10 NAGPRA items.

11 TVA initiated consultation on January 29,
12 2015, with Native American tribes who indicated
13 that Smith County, Tennessee, is an area of
14 interest. TVA made available all documents
15 relating to the archeological site and the NAGPRA
16 cultural items. We asked for a response within 30
17 days as to which tribes wished to consult further.
18 The Native American liaison, Pat, scheduled a
19 telephone consultation on April 24th, 2015, and
20 representatives of the United Keetoowah Band of
21 Cherokee Indians in Oklahoma, the Eastern Band of
22 Cherokee Indians, and The Muscogee (Creek) Nation
23 attended. Archeological, historical and
24 traditional knowledge regarding this geographic
25 area was discussed during consultation. Although

1 clearly a prehistoric Native American burial, it
2 was agreed that there was not sufficient evidence
3 to culturally affiliate these NAGPRA cultural items
4 to a federally recognized Native American tribe or
5 tribes.

6 We then turned to the regulations regarding
7 the repatriation of culturally unidentifiable
8 NAGPRA cultural items. As you know, these
9 regulations provide a priority order for the
10 disposition of NAGPRA cultural items determined to
11 be culturally unidentifiable. This is a portion of
12 the 1993 United States Geological Survey map
13 illustrating judgments of the Indian Claims
14 Commission, the ICC, and the U.S. Court of Claims.
15 The ICC judgment recognizing the area as the
16 aboriginal lands of the Cherokee extends only to
17 the southern bank of the Cumberland River in Smith
18 County, Tennessee. I believe this judgment is
19 based on the 1785 treaty between the Cherokee and
20 the U.S. Government, signed at Hopewell, South
21 Carolina. Site 40SM113 is north of the Cumberland
22 River, placing it outside of the area recognized by
23 a judgment of the ICC or the U.S. Court of Claims.

24 In the absence of a judgment of the ICC or the
25 U.S. Court of Claims, treaties are the next source

1 of information that can be used to determine the
2 aboriginal occupation of an area. This 1884 map
3 created by C. C. Royce indicates the area north of
4 the Cumberland River is covered by a March 14th,
5 1775 treaty. This is kind of the light gray area
6 you see there that has the numeral 7 in it, and
7 again a red dot just below the border between
8 Tennessee and Kentucky represents the Hartsville
9 area. Historians have labeled this treaty as
10 either the treaty of the Sycamore Shoals or the
11 Treaty of Watauga. It was a land deal between
12 Cherokee chiefs and the Transylvania Company headed
13 by Carl Richard Henderson to form a fourteenth
14 colony. Based on this treaty, this consultation
15 concluded with a consensus agreement that the
16 NAGPRA items were from the aboriginal lands of the
17 Cherokee.

18 A Notice of Inventory Completion was drafted
19 for submission to the National NAGPRA Program. A
20 review of the draft NIC by TVA's Office of General
21 Counsel revealed a flaw in our reasoning. In the
22 preamble to the final regulations regarding
23 culturally unidentifiable human remains and
24 funerary objects there is a response to a comment
25 on the final rule. To quote, "Treaties signed

1 before the establishment of the United States
2 between the various colonial governments and Indian
3 tribes may be used to identify areas aboriginally
4 occupied by Indian tribes," based on the
5 acknowledgement of the validity of these treaties
6 by the United States.

7 The agreement between the Cherokee chiefs and
8 the Transylvania Company was signed in March 1775.
9 There is a letter from the North Carolina Archives
10 from James Hawk, who was the Transylvania Company
11 representative describing his trip to the Colonial
12 Congress in Philadelphia in October of 1775. On
13 behalf of the Transylvania Company, he spoke with
14 many representatives, including John Adams and
15 Thomas Jefferson, seeking their support of
16 Transylvania as the fourteenth colony. He failed
17 to convince them. In fact, in 1778 the Virginia
18 legislature declared the Transylvania purchase
19 void, and in 1783, the North Carolina legislature
20 did the same. Both states claimed that portions of
21 the Transylvania Territory were part of their
22 original colonial charter. Ultimately this area
23 became part of the states of Kentucky and
24 Tennessee. So this treaty was never acknowledged
25 by the Government of the United States and can't be

1 used to identify aboriginal land under the CUI
2 regulations.

3 Following the advice of the staff of the
4 National NAGPRA Program, we've brought this issue
5 to you, the NAGPRA Review Committee. We've
6 developed an agreement with interested tribes for a
7 joint disposition of these NAGPRA cultural items.
8 We have signed agreements with the Cherokee Nation,
9 the Eastern Band of Cherokee Indians, the United
10 Keetoowah Band of Cherokee Indians in Oklahoma, the
11 Shawnee Tribe, The Muscogee (Creek) Nation, and the
12 Thlopthlocco Tribal Town. There is a pending
13 agreement with the Eastern Shawnee Tribe, also. No
14 tribe has objected to this joint disposition.
15 We're seeking the Review Committee's support for a
16 Notice of Inventory Completion for the disposition
17 of these NAGPRA items to all interested tribes.
18 And that's our presentation. Any questions?

19 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

20 ARMAND MINTHORN: Committee, any questions,
21 comments to the report?

22 I do have some questions. Tennessee Valley,
23 this is a very big agency. In your report you were
24 citing excavations that took place and the
25 approximate time period of those excavations. Were

1 these excavations due in part to constructions on
2 the rivers?

3 THOMAS MAHER: Well, this particular situation
4 was that a nuclear plant, power plant was being
5 planned for this area, north of the Cumberland
6 River, and the excavations did take place because
7 that entire area would have been - was impacted.
8 And they identified this particular site and
9 others, but this is the only site that produced any
10 NAGPRA items.

11 ARMAND MINTHORN: Okay. And what year again
12 did these excavations take place?

13 THOMAS MAHER: 1976.

14 ARMAND MINTHORN: Okay. So does Tennessee
15 Valley currently house collections?

16 THOMAS MAHER: Tennessee Valley Authority has
17 control over many - thousands of NAGPRA objects -
18 human remains and tens of thousands of funerary
19 objects, but we possess almost none. This is one
20 of the few. Most of the - as Pat referenced, most
21 of the excavations that generated this large
22 collection took place in the thirties and the early
23 forties as part of the hydrological - the hydro dam
24 projects. And this was a three-part partnership,
25 you might say, between the Tennessee Valley, the

1 Works Progress Administration, and local
2 universities, particularly the University of
3 Tennessee, the University of Alabama and the
4 University of Kentucky, where TVA was purchasing
5 land and building dams and reservoirs. The
6 archeologists at these universities were concerned
7 about the permanent inundation and damage to these
8 archeological sites that they knew about. And the
9 Work's Progress Administration was, of course,
10 trying to find gainful employment for the many,
11 many people who were unemployed during the
12 Depression. So a lot of the excavations,
13 archeological excavations were used to employ
14 people. And the end results, the objects, the
15 NAGPRA objects and other archeological information
16 moved from the field to WPA-funded laboratories and
17 then directly to the universities. However, in the
18 vast majority of consequences this came from TVA
19 Federal land. So these collections are under TVA's
20 control. We just partner with the universities who
21 have physical possession.

22 ARMAND MINTHORN: So to understand that TVA is
23 a Federal agency, and like with other Federal
24 agencies that have NAGPRA, including ancestral
25 remains in their possession, there's a process to

1 work with tribes in disposition. And it sounds as
2 though this Tennessee Valley has a very large
3 collection. So that would be a question too is,
4 like other Federal agencies, how is TVA going to
5 work for proper disposition of the collection that
6 TVA has?

7 THOMAS MAHER: We have been working with the
8 Federal tribes that have shown and expressed an
9 interest in the greater TVA area, which includes
10 the river valley but also the larger power service
11 area of TVA. And we're in the process of doing
12 consultations with these tribes, primarily site-by-
13 site, and repatriating the NAGPRA items to tribes
14 we can culturally affiliate to or using the
15 culturally unidentifiable regulations. It's going
16 to take a few years because of the size of these
17 collections, but we have good partners and good
18 inventories at the University of Tennessee, and we
19 are validating and improving our inventories at the
20 University of Alabama and there are small amounts
21 at the University of Kentucky. So we periodically
22 have face-to-face consultations. We have one
23 planned for this February on site at the curation
24 facilities of the University of Alabama in
25 Moundville, where we can consult, benefit from the

1 information that the tribes provide and reach
2 decisions and proceed forward. But given the size
3 it will take some years.

4 ARMAND MINTHORN: Well, in your presentation on
5 the page of tribal consultation in January of 2015
6 and then it says April 2015, you indicated that
7 tribal consultation was by phone. And then just
8 the last question you said what tribes expressed an
9 interest. So again, it's not the tribes that need
10 to express an interest to initiate the
11 consultation. It's the Federal agency that
12 initiates that dialogue and initiates that process.
13 It also is concerning that the tribal consultation,
14 as you cited, took place by phone.

15 PATRICIA EZZELL: Let me speak to that. When
16 we do a consultation, we do - TVA does initiate the
17 consultation and we invite all those - we typically
18 consult with the 18 federally recognized tribes who
19 have told us that the Tennessee Valley area is
20 significant to them. And so dependent on where in
21 the valley, we do try to contact - we don't try, we
22 contact all the tribes that have an interest in
23 that area and we do our best to schedule a time
24 where everyone that is interested can be on the
25 call, because we are located in Knoxville,

1 Tennessee. It is hard to get everybody together
2 for face-to-face consultations, so we do use
3 conference calls. It may not be the best way but
4 at least we are communicating and we are doing our
5 best to get everybody who has an interest on the
6 phone so that we can hear their comments. We do
7 send out notes, not only to the people who were on
8 the phone but to those parties who may have an
9 interest and they do have an opportunity to contact
10 us. Those who would not be on the phone call have
11 an opportunity to contact us to provide any
12 comments. So that is what we do with the current
13 consultations, and then we have face-to-face
14 consultations when we can.

15 ARMAND MINTHORN: Okay. Well just - again,
16 just some comments. As an example, because I'm not
17 very familiar with Tennessee Valley, like the other
18 Federal agencies, whether it be BLM or Forest
19 Service or Army Corps, from experience in working
20 with these Federal agencies and they hear it over
21 and over that consultation needs to be initiated
22 and it doesn't ever end, but the best consultation
23 is face-to-face. And within those Federal
24 agencies, they delegate the capacity to consult to
25 their field stations. So not to say that it's an

1 excuse because you're in Knoxville, and if
2 telephone conferencing can work that's fine. But
3 if Tennessee Valley has a capacity to delegate that
4 consultation to a field station or to somebody out
5 in the field, that would immensely help. So that's
6 an example. That's how we work with Federal
7 agencies in the Northwest, and it does work.

8 But again, you know, another comment, you
9 know, just like the Army Corps of Engineers at
10 home, they built dams, but prior to them dams being
11 built, they excavated numerous burial sites along
12 the Columbia River, including archeological sites,
13 and those collections are throughout the nation.
14 We continually tell the Corps of Engineers that
15 those known burial sites and those known
16 archeological sites are connected and they need to
17 be protected with plan or plans, through cultural
18 resources management plans, sacred sites protection
19 plan, which would include burial sites. That's
20 what - that's a constant work with the Federal
21 agencies in the Northwest. And I don't know if
22 Tennessee Valley has similar processes and similar
23 workings within your agency, I don't know. But to
24 understand that for us as tribes, cultural
25 resources sites, archeological sites, burial sites,

1 sacred sites, they're all connected. They can't be
2 separated from each other. They're all connected.
3 So that as a comment, and again because not
4 familiar with the Tennessee Valley.

5 PATRICIA EZZELL: Thank you for your comment.

6 STEVE TITLA: Chairman.

7 ARMAND MINTHORN: Steve.

8 STEVE TITLA: Thank you to the TVA - can I call
9 you that? - representatives for the report. I
10 liked your PowerPoint and the shiny paper it's on.
11 Thank you. But based upon your research and the
12 report, it sounds like to me, based upon the
13 judgment of the Indian Claims Commission and their
14 area, you said that 40SM113 is just north of the
15 boundary of that Indian Claims Commission boundary,
16 right? How far north is that?

17 THOMAS MAHER: Frustratingly, it's just about a
18 hundred yards north of the north bank of the
19 Cumberland River, and the ICC agreement seems to
20 stop at the south bank.

21 STEVE TITLA: Okay. Based upon the judgment of
22 the Indian Claims Commission and the 1775 Treaty of
23 Sycamore Shoals, Area 7, that's within that area?

24 THOMAS MAHER: It is within that area.

25 STEVE TITLA: It sounds like the Cherokee

1 Nation would have that area then.

2 THOMAS MAHER: And we thought that initially,
3 but under the culturally unidentifiable
4 regulations, a treaty has to have been acknowledged
5 by the U.S. Government, and the 1775 Treaty of
6 Sycamore Shoals was never acknowledged by the U.S.
7 Government and was specifically disavowed by two
8 state legislatures. And so we found ourselves in a
9 position where we didn't know how to go forward,
10 and that's why we've come to you or reached
11 agreement with a number of tribes to dispose of
12 these NAGPRA items to all of them. And then they,
13 of course, will choose who will be the lead tribe
14 and we will work with them on the ultimate
15 reinternment.

16 STEVE TITLA: It sounds like you did some
17 consultation, like you said, with various tribes in
18 the area. And like our chairman, I'm not familiar
19 with Tennessee, the state of Tennessee or TVA,
20 being from out West. But the tribes that you have
21 agreements signed or pending, Cherokee Nation,
22 Eastern Band of Cherokee Indians, United -

23 THOMAS MAHER: Keetoowah.

24 STEVE TITLA: - Keetoowah Band of Cherokee
25 Indians in Oklahoma, Shawnee Tribe, Muscogee

1 (Creek) Nation -

2 THOMAS MAHER: Thlopthlocco.

3 STEVE TITLA: - Thlopthlocco Tribal Town,
4 Eastern Shawnee Tribe of Oklahoma. Have you had
5 any personal consultations with these tribes?

6 THOMAS MAHER: Oh yes, we've spoken with each
7 and every one.

8 STEVE TITLA: You met with them face-to-face?

9 THOMAS MAHER: On this particular topic, we
10 didn't meet with each and every one face-to-face,
11 no.

12 STEVE TITLA: But you have agreements pending
13 with them?

14 THOMAS MAHER: I have a pending agreement from
15 the Eastern Shawnee. I have in hand signed
16 agreements from all of those other tribes. In your
17 packet, which was sent some time ago, it's missing
18 the most recent ones from The Muscogee (Creek)
19 Tribe and the Thlopthlocco Tribal Town. But got
20 those last week.

21 STEVE TITLA: Okay. I think that - I think
22 that's good that you have agreements signed or
23 pending. The lack of personal meeting with the
24 tribes concerned is an issue that I'm thinking
25 about, and I don't know the distances and the

1 location of these tribes in Tennessee or in nearby
2 states, but I think it would have been good if you
3 can meet with them personally, reach out to them,
4 travel to them. For example, in the prior
5 presentation of the Chaco Culture National
6 Historical Park and the National Park Service
7 Intermountain Region and the Navajo Nation, I know
8 that that distance is a pretty long distance they
9 have there, and Hopi is located in Arizona. I
10 don't know if you're familiar with Arizona. Hopi
11 is in Arizona, central north Arizona. Navajo
12 Nation is in four states, but they're still located
13 in Arizona also. The distance I think is pretty
14 far from Chaco Canyon to their location, but it
15 seems like they still met with them on a personal
16 basis and had agreements, and a Navajo member came
17 to the meeting. So I would recommend that you meet
18 with these tribes on a personal basis, reach out to
19 them, go to the places wherever they're at, if
20 they're nearby in Tennessee or nearby states.
21 Where are they located?

22 PATRICIA EZZELL: Most of them are located here
23 in Oklahoma, so it's a little more than a drive,
24 and we do try to reach out and visit as much as we
25 can. We do not visit for every single

1 consultation, but I have heard the comments so I
2 appreciate your comments and I can take those back.

3 STEVE TITLA: Yes, from an Apache point of
4 view, and I think maybe from a lot of natives'
5 point of view in the nation, I think that we like
6 person-to-person contact rather than telephone or
7 email or what have you, whatever else, Facebook or
8 I don't know. But anyway, your report is good
9 though, and what you have is the pending
10 agreements, so I think that's good also.

11 Chairman, do we need a motion here?

12 **REVIEW COMMITTEE MOTION**

13 STEVE TITLA: I make a motion.

14 PATRICK LYONS: I would second.

15 ARMAND MINTHORN: Discussion?

16 Again, thank you for your report. And again,
17 not being familiar with TVA, and certainly we'll
18 read up and become familiar with your agency, all
19 Federal agencies, BLM, Army Corps, Forest Service,
20 Department of Energy, they all have a policy that
21 guides them on consultation with tribes. Could I
22 get a copy of your policy that guides you on
23 consultation with tribes?

24 PATRICIA EZZELL: Yes, I can send you our
25 process. I hesitate to call it a policy, because

1 policies have to go before our board of directors,
2 and we have not sent a policy to the board of
3 directors but it is the process that we do
4 consultation under, and I would be glad to provide
5 that to you.

6 ARMAND MINTHORN: Carla, clarification, TVA is
7 a Federal agency and it sounds like there may be a
8 difference between TVA and the other Federal
9 agencies. That's a perception.

10 CARLA MATTIX: It is a unique type of Federal
11 agency, and I'm honestly not really familiar with
12 its statutory enabling framework. But it is a
13 different - just from the description and the
14 little I know about it, it more of an independent
15 type Federal agency, because it doesn't have the
16 same Federal funding and some of the same
17 requirements. But I can't fully answer your
18 question because I don't know at this point.

19 ARMAND MINTHORN: Okay. That only muddled the
20 puddle even more. Well, because this committee and
21 because our people with the Program aren't familiar
22 with TVA, we need to understand TVA more,
23 particularly as another Federal agency. But it's
24 concerning that you, as a Federal agency, have a
25 process rather than a policy to guide you on

1 consultation. There are Federal agencies that use
2 a policy and use it very well, but there are some
3 Federal agencies that ignore it completely and
4 don't use that policy in guiding them on
5 consultation with tribes.

6 But in particular too, because TVA has a very,
7 very large collection, it would be critical for
8 this committee to become familiar with how TVA is
9 going to work with those collection or collections
10 and how and what will guide them with disposition
11 of these collections in relation to tribes. So we
12 as a committee are going to make some plans in the
13 future for this committee when it meets to plan and
14 invite very strongly Federal agencies to come here
15 and report on the progress and their challenges,
16 but also including our museums that are out of
17 compliance with NAGPRA. We are going to also
18 discuss how we're going to meet with those museums.
19 But in particular with TVA, we need to continue
20 meeting and so we can understand what TVA is, who
21 you are and what you do.

22 STEVE TITLA: Chairman? I think Mattix has
23 muddied the waters for me, but anyway, TVA being a
24 Federal agency, should they have followed the
25 regulation under the NAGPRA, under Federal law, and

1 if they have a process in place and not a policy is
2 that consistent with the NAGPRA regulations and the
3 Federal law, Mattix?

4 CARLA MATTIX: The different agencies have
5 implemented the Presidential Memorandum of 2009 in
6 different ways, so I just am not familiar with the
7 way TVA has implemented that memorandum. It is not
8 absolutely consistent amongst Federal agencies or
9 Federal independent agencies. And again, I don't
10 know exactly how TVA defines itself as far as some
11 subset of Federal agencies, so we can look into
12 this and get back to you, but I can't tell you that
13 right now because I'm just not familiar with the
14 probably many hundred types of Federal agencies
15 under the Federal government.

16 STEVE TITLA: Chairman, I think that based upon
17 that, we should seek clarification in this matter,
18 and I'd like to withdraw my motion until we can get
19 clarification from our esteemed attorneys, Mattix
20 and Steve and also the Madam DFO.

21 CARLA MATTIX: I think just one other aspect of
22 your question, you asked does NAGPRA require a
23 consultation policy. Was that part of your
24 question? I might not have caught all of it?

25 STEVE TITLA: No, I think that the fact that

1 TVA has informed us that they have a process in
2 place but not a policy, is that process consistent
3 with the NAGPRA policy in Federal law?

4 CARLA MATTIX: I believe that they are required
5 to follow the NAGPRA regulations -

6 PATRICIA EZZELL: And we do, as well as when
7 we're consulting with Section 106 issues, we follow
8 the regulations. I mean, we do follow the law.

9 STEVE TITLA: I guess my question is whether
10 the process you have is the same as a policy.

11 CARLA MATTIX: So NAGPRA, the NAGPRA
12 regulations spell out some specific requirements
13 for consultation under the regulations for NAGPRA,
14 and that's unique to NAGPRA. There are other types
15 of consultation policies that Federal agencies may
16 have in a general sense, not just for NAGPRA but
17 for all different types of consultation. And
18 that's what - it's not clear to me if there's a
19 consultation policy or process in that general
20 sense that the TVA might have, but as far as NAGPRA
21 and the process under NAGPRA, they do have to
22 follow the consultation process spelled out in the
23 NAGPRA regulations. Does that help answer your
24 question?

25 STEVE TITLA: Were you able to look at the

1 process, the written process they have?

2 CARLA MATTIX: No, what I do know is that
3 NAGPRA has regulations that they have to follow. I
4 do not know what TVA's own individual consultation
5 process might be in general. But they do have to
6 follow the NAGPRA consultation process.

7 DENNIS O'ROURKE: Mr. Chair?

8 ARMAND MINTHORN: Dennis.

9 DENNIS O'ROURKE: I was just going to say,
10 irrespective of whether we call it a policy or a
11 process, it seems to me that the engagement with
12 multiple tribal groups in consultation on this
13 issue has followed the spirit and the letter of the
14 NAGPRA Act, at least as I understand it, and is
15 similar, if not identical, to other cases that we
16 heard before the committee. I'm perfectly happy to
17 continue to take action on the motion, unless it
18 was rescinded, in which case I'll make it again.

19 ARMAND MINTHORN: Yes?

20 PATRICK LYONS: I was going to say exactly the
21 same thing. I understand our colleagues' concern
22 about policy versus procedure, but from what I see
23 it looks like TVA has done what's required of them
24 under the statute and under the regulations.

25 ARMAND MINTHORN: Cissy.

1 LINDALEE FARM: I would concur with that. I
2 have a question. You had stated that there are
3 approximately 18 tribes that you deal with on a
4 regular basis who have an interest in this area.
5 Why don't you give us a little bit of background as
6 to your relationship with the tribes and the
7 interactions that you have had with them.

8 PATRICIA EZZELL: I would be glad to, and thank
9 you for that question. In 2005, I was asked if I
10 would become the Tribal Liaison for TVA. We - I
11 think as Kirk Perry pointed out yesterday, we had
12 not had the best record with relations with our
13 tribal partners. I accepted that position. In
14 2005, we did travel to Oklahoma and we met with,
15 off the top of my head I - many of the tribes who
16 were in - who now the governments are now in
17 Oklahoma. I can think of the Choctaw. The
18 Chickasaw was the first tribe that we actually met
19 with face-to-face, Ms. Gingy Nail. And then so we
20 over 2005 to 2006, we met with all of the 18
21 individuals who at that time were in those roles of
22 either THPO or cultural resource people.

23 We invite the tribes to what we call
24 consultation workshops every five years. That
25 started in 2002. We had that in 2007, 2012, and

1 we're going to have another big meeting 2017. In
2 between those large meetings, we oftentimes have
3 face-to-face consultations, but we don't have face-
4 to-face consultations for each individual NAGPRA
5 issue because we have so many. I like to think
6 that I have a - that I built good relationships
7 with the tribes. Our coworkers, Tom, Marianne, all
8 of the archeologists that we work with, we take our
9 positions very seriously. We come to the To Bridge
10 a Gap conference in Oklahoma every year to meet
11 with folks, and so it's not that we never come to
12 visit or we never have those face-to-face
13 consultations, but we do not have every
14 consultation that we have. This year we had 156
15 separate Section 106 undertakings, and you know, we
16 had a variety of NAGPRA issues that came up.

17 And because we have worked to build those
18 relationships, they know us; they know who we are
19 at TVA. When I pick up the phone, they know me.
20 When they call me, I respond. I mean, I like to
21 think - and there are some folks here and you may
22 ask, but I like to think that we have pretty good
23 relationships and that we've worked hard to build
24 those relationships, and that we talk about our
25 consultation process, we talk about what's not

1 working.

2 I have a monthly call. We instituted that
3 last year I believe, so that any of the folks who
4 want to can call in. We have it the third
5 Thursday, and you're all welcome to join us. We
6 have it the third Thursday of every month, which is
7 today. I had to cancel because it's at the same
8 time today, but typically we're on the phone and we
9 go over everything that's going on in our
10 consultation world. So because of the long
11 distance, I think that we are doing a lot to build
12 those relationships and to consult and to get
13 peoples' feedback. So I don't know. I hope that
14 answers your question somewhat.

15 ARMAND MINTHORN: There were other presenters
16 yesterday that we asked if they could keep us
17 updated. Would like very much if TVA could keep us
18 updated as a committee, and understand too that as
19 we begin to work on our calendar, we will be
20 strongly inviting you back to report so we can
21 understand more who TVA is.

22 PATRICIA EZZELL: I'm also the corporate
23 historian, so I could really - I could - I'll be
24 glad to introduce you to TVA. So thank you.

25 ARMAND MINTHORN: Okay. Final question,

1 Melanie or for TVA, like every Federal agency, you
2 have to submit summaries and inventories. Did TVA
3 - do we have these?

4 MELANIE O'BRIEN: Yes.

5 ARMAND MINTHORN: Okay. All right.

6 STEVE TITLA: Chairman?

7 ARMAND MINTHORN: Steve.

8 STEVE TITLA: Ma'am, earlier you mentioned
9 agreements signed or pending with the tribes and
10 the tribes contacted - I thought that you indicated
11 that you had not had any face-to-face meetings with
12 these tribes. And a while ago in answer to my
13 esteemed colleague Cissy's question, it sounds like
14 you met with a lot of them in Oklahoma and you come
15 out here and you meet with them and they know you.
16 And see, that's what we didn't get in the initial
17 presentation, so I thought that this was all on
18 telephone and consultation. But as you indicated,
19 you've been to Oklahoma before and you reach out to
20 them and meet with these tribes. And that's what
21 the concern of the Chairman is and that's my
22 concern too, that the consultation be followed
23 thoroughly with face-to-face meetings, and it
24 sounds like you're doing that. So that alleviates
25 my concern as far as consultation is concerned.

1 Thank you.

2 PATRICIA EZZELL: I appreciate that comment and
3 I'm sorry to cloud the issue. For this particular
4 consultation, we did not come to Oklahoma, but we
5 have in other times.

6 IAN THOMPSON: Mr. Chair, I wonder if I might
7 speak.

8 ARMAND MINTHORN: Yes.

9 IAN THOMPSON: My name is Ian Thompson. I
10 serve as the Tribal Historic Preservation Officer
11 for The Choctaw Nation of Oklahoma, and I would
12 just like to add to what TVA has said. They have
13 worked to create a strong relationship with us.
14 They have come out to see us. One of the issues is
15 the distance between us, and at times we've
16 requested to do meetings by phone because it is so
17 far and because they have worked to build great
18 relationships with us. So I just wanted to put in
19 a word for them.

20 ARMAND MINTHORN: Thank you.

21 We have a motion on the floor.

22 DENNIS O'ROURKE: Can I call the question?

23 ARMAND MINTHORN: Yes. All those in favor of
24 the motion, raise your right hand.

25 MELANIE O'BRIEN: Those in favor, Dennis

1 O'Rourke, Steve Titla, Patrick Lyons, LindaLee
2 Cissy Farm, Heather Edgar.

3 ARMAND MINTHORN: Opposed?

4 Abstain?

5 Motion carries. Thank you.

6 Melanie, we're going to take a break.

7 MELANIE O'BRIEN: Certainly, sir. Fifteen
8 minutes?

9 **BREAK**

10 MELANIE O'BRIEN: The next item on the agenda
11 is another disposition request from Texas State
12 University. We have Todd Ahlman from Texas State
13 University.

14 **ACTION ITEM: CUI DISPOSITION REQUEST: TEXAS STATE**
15 **UNIVERSITY**

16 **PRESENTATION**

17 TODD AHLMAN: I would like to thank the Chair
18 and the Review Committee for allowing Texas State
19 University to present our disposition request
20 regarding human remains from archeological sites
21 41HY161 and 41HY163 in San Marcos, Hayes County,
22 Texas. I plan to briefly discuss the recovery of
23 the remains and the history of NAGPRA consultation
24 in regards to identifying cultural affiliation, a
25 disposition request from the Miakan-Garza Band of

1 the Coahuiltecan People, a nonfederally recognized
2 Indian group, and subsequent consultation with
3 federally recognized tribes, and finally, a
4 competing request for cultural affiliation and
5 repatriation of the remains by the Caddo Nation of
6 Oklahoma. I've asked the Caddo Nation and the
7 Miakan-Garza Band to be present and offer
8 additional insight in the territorial, historical
9 and cultural associations with the area that is
10 today known as Hayes County to aid in the Review
11 Committee's consideration of our request.

12 I'll begin with a discussion of the human
13 remains from 41HY161. In the fall of 1982, two
14 burials were encountered at site 41HY161 during
15 construction and maintenance of the Texas State
16 University campus in the City of San Marcos. The
17 human remains were disinterred in February 1983 and
18 osteological analysis was conducted by a biological
19 anthropologist and the remains were found to be of
20 pre-contact Native American ancestry. Radiocarbon
21 dating in 2010 found that one set of the remains is
22 around 3,500 years old and the other is around 500
23 years old. No known individuals were identified.
24 No associated funerary objects are present.

25 Consultation was conducted in 1995 with tribes

1 having aboriginal connections in Texas. There
2 currently are no federally recognized tribes with
3 aboriginal or tribal lands in Hayes County, Texas.
4 At that time, the remains were determined to be
5 culturally unaffiliated with any federally
6 recognized tribe.

7 In July 2014, the Miakan-Garza Band of the
8 Coahuiltecan People, a nonfederally recognized
9 Indian group, submitted a request for disposition
10 of the human remains to their group. During face-
11 to-face meetings and email discussions with the
12 Miakan-Garza Band, Texas State University
13 determined that this group has a connection to the
14 remains based on oral tradition, geography and
15 similar cultural practices. In August 2015, Texas
16 State University engaged in consultation with 26
17 federally recognized tribes regarding the proposed
18 disposition of the remains to the Miakan-Garza
19 Band. The Choctaw Nation of Oklahoma and the Osage
20 Nation of Oklahoma responded indicating that site
21 41HY161 is outside of their ancestral territory.
22 On September 16, 2015, the Caddo Nation of Oklahoma
23 submitted a request asking that the human remains
24 from 41HY161 be culturally affiliated with the
25 Caddo Nation. In October 2015, we requested

1 additional information from the Caddo Nation and
2 Miakan-Garza Band for us to assess cultural
3 affiliation, and this information has been provided
4 to the Review Committee.

5 After review of the information, it is Texas
6 State's belief that the Miakan-Garza Band has the
7 strongest claim for disposition of the remains and
8 Texas State is asking the Review Committee to
9 consider our request for disposition to the Miakan-
10 Garza Band.

11 Now, I'll go right into the next site. In
12 February 2008 and April 2009, human remains
13 representing at minimum four individuals were
14 removed from site 41HY163 in Hayes County, Texas.
15 Archeological human skeletal remains were
16 inadvertently discovered during a construction
17 project for expansion of the City of San Marcos'
18 Wonder World Drive and later excavated by Texas
19 State University's Center for Archaeological
20 Studies. Osteological analysis of the remains by
21 physical anthropologists from Texas State
22 University Department of Anthropology found the
23 remains to be of pre-contact Native American
24 ancestry. These remains date from approximately
25 A.D. 645 to A.D. 735. No known individuals were

1 identified. No associated funerary objects are
2 present.

3 Consultation by the City of San Marcos, Texas,
4 in cooperation with the Center for Archaeological
5 Studies and representatives of seven tribes with
6 aboriginal territory in Texas, was conducted in
7 March 2010. At that time, the human remains were
8 determined by the City of San Marcos to be
9 culturally unaffiliated with any of the consulted
10 tribes. The human remains and archeological
11 materials recovered from site 41HY163 are currently
12 curated with the Center for Archaeological Studies
13 at Texas State University.

14 In July 2014, the Miakan-Garza Band of the
15 Coahuiltecan People, a nonfederally recognized
16 Indian group, submitted a request for disposition
17 of the human remains to their group. During face-
18 to-face meetings and email discussion with the
19 Miakan-Garza Band, Texas State University
20 determined that this group has a connection to the
21 remains based on oral tradition, geography and
22 similar cultural practices. In February 2015,
23 Texas State University engaged in consultation with
24 26 federally recognized tribes regarding the
25 proposed disposition of the remains to the Miakan-

1 Garza Band. The United Keetoowah Band of Cherokee
2 Indians in Oklahoma, The Muscogee (Creek) Nation,
3 and The Choctaw Nation of Oklahoma indicated they
4 have no ancestral connections to Hayes County,
5 Texas, and deferred consultation. The Ysleta del
6 Sur Pueblo, the Delaware Nation, and the Tonkawa
7 Tribe of Oklahoma expressed support of the
8 disposition of the human remains from 41HY163 to
9 the Miakan-Garza Band. In March 2015, the Comanche
10 Nation of Oklahoma requested additional information
11 about the site and human remains and were provided
12 the complete excavation report and human remains
13 analysis to the Comanche Nation in March 2015. We
14 contacted the Comanche Nation via telephone and
15 email in March through August 2015 to follow up on
16 the request but received no response. It was our
17 conclusion that the information in the report
18 satisfied the Comanche Nation's request and they
19 had no further comment on the disposition request.

20 On September 16, 2015, the Caddo Nation of
21 Oklahoma submitted a request asking that the human
22 remains from 41HY163 be culturally affiliated with
23 the Caddo Nation. In October 2015, we requested
24 additional information from the Caddo Nation and
25 the Miakan-Garza Band for us to assess cultural

1 affiliation. And again, this information was
2 provided to the Review Committee. After review of
3 the information, it is Texas State's belief that
4 the Miakan-Garza Band has the strongest claim for
5 disposition of the remains, and Texas State is
6 asking the Review Committee to consider our request
7 for disposition to the Miakan-Garza Band.

8 In sum, Texas State University is requesting
9 that the Review Committee approve our request for
10 disposition of the human remains from archeological
11 sites 41HY161 and 41HY163 to the Miakan-Garza Band
12 of the Coahuiltecan People, a nonfederally
13 recognized group.

14 If this request cannot be approved today, we
15 ask for your guidance in how to proceed in the
16 repatriation process. We have asked the Caddo
17 Nation and the Miakan-Garza Band to present
18 information to the Review Committee regarding
19 historical and cultural ties to past peoples in the
20 area that is now Hayes County and to comment on the
21 disposition request. I hope this information will
22 foster discussion and help inform your decision
23 regarding our request.

24 First, Dr. Mario Garza of the Miakan-Garza
25 Band will present some information.

1 MARIO GARZA: Okay. I have a short PowerPoint
2 presentation, and I'm waiting for it to come up.
3 Okay. Again, I'm Mario Garza from the Miakan-Garza
4 Band of Texas. We're only one - we're one of only
5 four State-recognized tribes of Texas. The State
6 of Texas has recognized us as an original Texas
7 tribe. "Coahuiltecan" is the name given by
8 ethnologists and linguists to a large number of
9 minor tribes on both sides of the Rio Grande. So
10 there's a lot of small tribes that collectively
11 were called "Coahuiltecan" because we spoke the
12 common language that linguists called Coahuiltecan
13 language family. And there's a myth that the
14 Coahuiltecan were absorbed into the Spanish
15 population and lost all of their culture. But we
16 retained a lot of our Native culture. We retained
17 purification lodges. We have been doing sweat
18 lodges all these years. We also retained our
19 dances, or dance, which to us are another form of
20 prayer, and we have continued the use of doing our
21 peyote ceremony, which we believe became - the
22 Native American Church developed from our peyote
23 ceremony.

24 Hostilities toward the Indigenous people in
25 Texas, the Texas Rangers were founded in 1823 by

1 Stephen F. Austin to protect Anglo settlers from
2 Mexicans and Indians. The second president of the
3 Republic of Texas, Mirabeau B. Lamar, instituted a
4 policy of total extinction or total expulsion of
5 Texas Indians to make the land available to Whites.
6 By that time, a lot of the Indians had been
7 colonized by the Spaniards, so a lot of us were
8 able to remain in our traditional land and we were
9 able to pass as Mexicans and we used that for the
10 sake of survival. And one of the things that
11 happened, which happened all over the United States
12 at that time, that they were removing a lot of the
13 native people from their native traditional land,
14 and a lot of them ended here in the state of
15 Oklahoma. And now we have a situation that a lot
16 of the remains were being removed from their
17 original burial sites and coming to other states.

18 So we have lived in the Spring Lake area, in
19 which you know Dr. Ahlman was referring to as Hayes
20 County. So we believe that we emerged as "The
21 People" from the sacred springs in this area in San
22 Marcos, Texas. And we believe that our creation
23 story is documented by a rock art that is called
24 the White Shaman Panel. This - about six years
25 ago, this friend of mine kept insisting that I

1 should go look at this rock art that is called the
2 "White Shaman Panel," and so we started looking at
3 it and we started noticing that it had all the
4 elements of our creation story, the creation story
5 that had been passed to us orally for hundreds of
6 years. And another interesting thing that we
7 noticed about the rock art was that it had all the
8 elements and the instructions of our peyote
9 ceremony.

10 The White Shaman Panel has been carbon-dated
11 to be over 4,000 years old, and it's located at the
12 confluence of the Pecos and the Rio Grande rivers
13 near Comstock, Texas. It's about 30 feet in length
14 and about 15 feet high. And we know that the White
15 Shaman Panel was created by our ancestors because
16 for one thing it is in the Coahuiltecan homeland.
17 It is about our creation story, and it is about our
18 peyote ceremony. And that area in red is the
19 Coahuiltecan homeland. As you can see, where you
20 see the star, I don't know if you can see it, but
21 that's where the White Shaman Panel is located.

22 So the White Shaman Panel is about a lot of
23 things. It's a lot of information. I mean, it
24 even predicts the next comet when it's going to
25 happen. It has a lot of the area about the

1 geography, but I'm just going to - because of the
2 time situation, I'm just going to concentrate how
3 it relates to the creation story. So most of the
4 books that you read on Native people, they say that
5 we did not have a written language but we did have
6 a written language. The rock art was just one of
7 them. Reading the White Shaman Panel, and we
8 cannot read it the way we were taught to read in a
9 linear fashion. We have to read it in a circular
10 fashion, the global fashion, and we have to try to
11 conceptualize the way our people used to
12 conceptualize thousands of years ago and the way a
13 lot of us still conceptualize.

14 They call it the White Shaman Panel, but we
15 call it "Napako." In our language, it means "our
16 journey." I'm going to just mention a few elements
17 of our creation story. It shows the upper and the
18 underworld. There's a wiggly line that you see.
19 It's white until it touches the figure there on the
20 left of the panel and then it starts turning black.
21 That shows that's the summer solstice. It's got
22 five figures, the five figures of creation. It's
23 got the eagle, rabbit, snake, deer and jaguar. It
24 shows the White Shaman Panel figure loses its head,
25 it becomes the moon that was sacrificed, that

1 figure did for our creation. And at midnight, the
2 force of the moon pulls on the Earth and the Earth
3 Mother figure, the Creation Spirit of Mother Earth,
4 or as we call it "*Tap Tai*," through the four
5 elements of fire, water, soil and air, and with the
6 sacrifice of Grandmother Moon, we were created in
7 the world at midnight during - we were created at
8 midnight, and that also relates to our all-night
9 peyote ceremony, that at midnight that's when we
10 bring in the midnight water because that's when the
11 time that we became humans.

12 And according to our creation story, we
13 followed the deer and came out into this world
14 through springs of water, and we believe that these
15 are the springs that we call the Sacred Springs at
16 San Marcos, Texas. And before I show you the four
17 springs on this panel, I wanted to point this out,
18 we have that figure that we call "*Panama Pilam*
19 *Xam*," which represents the human and peyote as one.
20 And you can see he's got the small black dots on
21 the antlers and that represents our sacred
22 medicine, the peyote. And *Panama Pilam Xam* is
23 coming out of the underworld and it represents that
24 life coming in, that we the people have with the
25 medicine, that we were created at the same time.

1 In other words, we believe that we are the peyote
2 and the peyote is us, according to our spiritual
3 beliefs.

4 Another thing that relates to the ceremony,
5 you can see the figure coming out of the U-shaped
6 altar with a peyote Chief in the middle, like in
7 this image, that's another one of our instructions.
8 We built our altar where we do our ceremony in a U-
9 shape, which people call the half-moon altar. And
10 there's a lot of other information on that figure
11 that relates to the ceremony, but we don't have
12 time to go into all of them. Okay.

13 We have four sacred springs, and they're in
14 the panel, circled under the red circle you see the
15 four springs. So there's the first - the four
16 springs, the one on top is the one in Austin,
17 Texas. The second one is the one in San Marcos.
18 The third one is the one in New Brussels, and the
19 last one is the one in San Antonio. And you can
20 see the line coming out that separates the upper
21 world from the underworld, and you can see that it
22 shows that we came out at the Sacred Springs, which
23 is the one in San Marcos. And if you take an
24 aerial photograph and superimpose it on the drawing
25 on the panel, so you see the Barton Springs in

1 Austin on top, then you see the Sacred Springs in
2 San Marcos. You see Coman Springs in New Brussels,
3 and then you see San Pedro Springs in San Antonio.
4 So over 4,000 years when the panel was painted, you
5 can see that it lines, pretty much it's still the
6 same.

7 And so it shows us coming out at the Sacred
8 Springs in San Marcos. So that's why San Marcos is
9 our most sacred site that we have, and that's where
10 we do our ceremonies now. That's even where we
11 have our annual pow-wow. And this property is now
12 owned by the Texas State University, and we had to
13 - we were paying three hundred dollars every time
14 we wanted to go there and pray, wanted to get to do
15 a ceremony. But after negotiating with the
16 president of the university, now we don't have to
17 pay when we go and pray. We used to go and sneak
18 there and do some of our ceremonies, because we do
19 several ceremonies during the year.

20 I'm going to skip the next part, which talks
21 about our peyote ceremony, and that's the only area
22 in the world where peyote grows and you can see
23 it's at the border of - the present border of Texas
24 and most of it is in Mexico. Briefly the four
25 required songs for the - any roadman running the

1 peyote ceremony has to sing those four songs. The
2 Opening Song, the Midnight Song, and the Morning
3 Water Song are in Coahuiltecan. The last one is in
4 Comecrudo, which is one of the dialects of the
5 Coahuiltecan language. And there's a dictionary
6 you can download free online that you can look up
7 the words and see that when I say they're in
8 Coahuiltecan, they're actually in Coahuiltecan.

9 Real fast, one of the most commonly used words
10 is "yana wana." The common closing formula for
11 most of the prayers are "xanē yohui," which in our
12 language means "with all that I am" or "with all
13 that there is." So with always pray with all the
14 essence in creation. There were two manuals that
15 the Catholic Church used for over 260 years to do
16 away with that ceremony, and the first one was a
17 manual that was used for confession, and it was
18 published - where's the date - in 1732. So one of
19 the things that they did, they recorded our language
20 the way they heard it, so they provided all this
21 language. All these manuals that have become our
22 dictionaries and helped us analyze the make of our
23 language. And the other one was a manual to
24 administer all the sacraments of the Catholic
25 Church.

1 So in summary, the medicine only grows in the
2 Coahuiltecan homelands. So for the first people to
3 start doing the ceremony had to be people that were
4 in that land. The four required songs in our
5 language, the common peyote songs are in
6 Coahuiltecan. Most peyote songs contain words of
7 our water songs. There's a lot of CDs that you can
8 buy online that are called "intertribal" but
9 they're actually in our language, in Coahuiltecan
10 language. One of the common songs I had it on the
11 slide, a song that I have heard, every single
12 peyote ceremony that I have done. And that simple
13 says with the spirit of the - all the waters of the
14 spirit. That's the whole song, and I have heard
15 that song in every language in every ceremony that
16 I have gone to, regardless of if it's run by a
17 Navajo, if it's run by an Apache, if it's run by a
18 Sioux, whatever. I have heard that song at every
19 peyote ceremony that I have attended.

20 Okay, this is another important thing that I
21 wanted to show you. The City of - if you look at
22 the blue area there, that's where the springs are.
23 And one thing that I wanted to mention also about
24 the area, archeologists have documented that that
25 area is the oldest continuously inhabited area in

1 North America. So our people used to live there
2 for thousands and thousands and thousands of years,
3 until the Europeans came and started pushing us out
4 and started killing us.

5 And the City of San Marcos owns - if you look
6 at the green area, the City of San Marcos owns a
7 264-acre national preserve, and they're allowing us
8 to have 2 acres in that land, which is right
9 adjacent to the property that is owned by Texas
10 State University where the sacred springs are,
11 where the remains were removed from. And they gave
12 us those two acres, and also they're giving us any
13 needed additional land if we need to expand our
14 repatriation cemetery, because San Marcos is right
15 now one of the fastest growing small cities in the
16 United States and there's a lot of construction.
17 Right now they're doing an overpass real close to
18 the area because of the trains, so they're doing an
19 overpass so people can drive over the current
20 trains. And a lot of us fear that they're going to
21 be uncovering more human remains because we
22 consider that area one of our old burial sites.
23 And if you consider that people lived there for -
24 continuously for, some people say 13,000, some
25 people say 19,000, depending on what study you

1 looked at, there's a lot of human remains there.
2 And if they're going to keep doing more
3 construction, they're going to unearth more
4 remains. But the City of San Marcos has given us
5 land so we can do - so we can repatriate these
6 remains as close as possible from where they were
7 removed. And I feel that it was wrong to move the
8 people away from their homeland, but I feel that
9 it's even worse to move the remains from where they
10 were initially buried away from that. So if we get
11 the remains, we will reinter them as close as
12 possible to where they were removed. So again
13 we're asking you to let us have the remains and
14 return them to where they were - as close as
15 possible where they were removed. And hopefully,
16 this will be the last time you see me. I hope that
17 they do not remove - unearth any more remains that
18 we have to come here, because this is really hard
19 and stressful for us to be dealing with this, with
20 repatriation. So thank you.

21 TAMARA FRANCIS-FOURKILLER: I want to thank you
22 for coming up here and saying all that, I really
23 appreciate that. That's my consensus also is the
24 main point is to have them reburied as closely as
25 possible. I also believe that the whole point of

1 our being here is to make sure that the ancestors
2 do get reburied. Unfortunately, when I did give my
3 report to the NAGPRA committee, I also being
4 Chairman, I did not have enough time to complete my
5 report. I was only able to give you what I was
6 prepared so far. I had to attend a couple of
7 meetings and I had to just submit what was ready.
8 If I may, let me go ahead and continue.

9 According to our Caddo history and our oral
10 traditions, the Caddo people have lived in
11 Arkansas, Louisiana, Texas, Oklahoma and the
12 Missouri area for thousands of years. Our people
13 have actually carried on with the peyote traditions
14 for thousands of years also. We've traveled down
15 into the Mexico area to gather this button, this
16 little button, peyote button for us to have our
17 traditions, for us to have all of these ceremonial
18 spiritual rituals that our Elders have carried on
19 for thousands of years now. I can recall oral
20 traditions from my grandparents, my great-
21 grandfather who is still living today, of them
22 going down to actual Mexico to gather this. I have
23 written documentation of different persons talking
24 about them going down into Texas and having
25 different alliances with tribes, Henri Joutel in

1 1687 recorded 50 allies in south-central and west
2 Texas. The Coronado documents also show that they
3 had a group called the Taos that tattooed
4 themselves that were an alliance of the Hasinai
5 people who were the Caddo. And these groups, they
6 spread for hundreds of miles to the east and the
7 southeast. These groups were all over in Texas.

8 The connection of the Caddo people were far
9 flung into the Southwest and into far south Texas.
10 Datura vessels found at post-A.D. 1450 sites in the
11 Great Bend area and in east Texas argue that the
12 Caddo had participated in Datura shamanism. Motifs
13 on Caddo pottery in east Texas sites after A.D.
14 1430 suggest that Caddo peyote symbolism of Caddo
15 people being familiar with peyote and peyote
16 ceremonialism, which then suggests that the Caddo
17 groups, either through others or their own
18 journeys, had knowledge of their peyote gardens in
19 southern Texas before the horse was introduced.
20 This also leads to the questions of the connection
21 between the Caddo and the aboriginal societies of
22 Mesoamerica. There was also Mexican obsidian tools
23 that were also found at Spiro, that was a well-
24 known Caddo site. We've got all kinds of things
25 that lead to the Caddo people being connected with

1 Mesoamerica. So there's nothing that says that we
2 weren't traveling back and forth, we weren't going
3 through that area, we weren't connected with it.

4 According to the Missionary Francisco Hidalgo,
5 the Caddo used the mescal bean as early as 1716.
6 Hidalgo implied that the peyote and the mescal have
7 been used interchangeably for shamanism or war
8 ceremony. Sacramental use of the spineless cactus
9 peyote was found growing friskily in the Rio Grande
10 Valley in present-day Mexico and in Texas. It was
11 believed to have originated with the Carrizo, the
12 Lipan Apache, the Mescalero Apache, the Tonkawa and
13 the Caddo. In 1649, an account supports the
14 Carrizo peyotism, which was then diffused to other
15 tribes. So that means that it wasn't just with one
16 group. There was all sorts of tribes that did use
17 peyote. It wasn't one group.

18 Now, the Caddo, they consisted of several
19 subdivisions. A lot of their allies, like I said
20 before, there were different - as many as 50
21 subdivisions. And when they allied with different
22 groups, most of those allies went and they would
23 often tattoo their faces, because Caddo were known
24 for having the spools in the ears and stuff, the
25 tattooed faces, the tattooed bodies and stuff. All

1 of their allies, and stuff, would then go ahead and
2 they would do the same thing. Throughout Texas,
3 throughout southeast Texas, southwest Texas, on
4 into Mexico, there were a lot of these tribes and
5 groups that did that to show their alliance to the
6 Caddo and the Caddo Confederacy. We were there.
7 We were there throughout hundreds of years.

8 As far as the peyote and the peyote songs and
9 things like that, when we sing our peyote and our
10 peyote songs, they are in our own language and we
11 have sung them for thousands of years. That is
12 connected to our people. We have pottery and
13 things that have been found along the different
14 sites along the gulf of Texas there, where there -
15 they have references, the Caddo pottery has
16 references to peyote on them. How will the Caddo
17 pottery have the peyote designs on them if we were
18 not using peyote, and how would they be that far
19 south if we were not down there, if we were not
20 trading with peoples down in that area? As far
21 south as Galveston, as far south as Corpus Christi,
22 that's how far south our Caddo pots have been
23 found. There's documentation of them even going
24 into Mexico and our pots being found in Mexico.

25 I don't have a PowerPoint or anything like

1 that to show you that our Caddo peoples lived here,
2 lived there, did all of this. We also have a
3 creation story where we came up out of the water.
4 With our creation story, the water got - it was
5 shut at a certain point, but it was shut by coyote,
6 who kept the rest of our people from coming up, and
7 that's word of mouth, passed down generation by
8 generation by our people. But it's not up to me
9 and my people, my one tribe to claim a wall art
10 that belongs to many tribes.

11 We're a peaceable group. We know where we've
12 been. We know how large the Caddo Confederacy
13 actually was. We know we stretched for states. We
14 know we had many allies, and we know that we have
15 burials that stretch in so many different
16 directions that we can't even fathom right now how
17 far they are.

18 Right now, I've only been in office as
19 chairman for nine months, and I've been doing so
20 much back work to try to correct a lot of things
21 that have been done wrong in the past three to five
22 years for our people. But a lot of the things that
23 I've done in the past ten years, I was the Tribal
24 Historic Preservation Officer for the Delaware
25 Nation, so I do know a lot about research and I do

1 know a lot about burials and things. And I do know
2 about the law, and I do know about researching
3 archeologically and how to connect the dots and
4 things.

5 And as a Caddo person, I have been researching
6 my Caddo archeology since I was a small child, and
7 I have followed around the different archaeologists
8 my entire life, and I do know that our connections
9 reach far down into Mesoamerica. And that's not
10 just something that now as an adult I know from
11 oral tradition, but something that now as an adult
12 I can connect the dots from looking at the actual
13 objects that we find at different mound sites where
14 we look at objects like this where it has things
15 like this on it, and you see how it's got the hands
16 and things like that, and the circles. It looks
17 very Mesoamerican, doesn't it? Why would it look
18 so Mesoamerican if we weren't connected to it?

19 I've studied this my whole life. I have no
20 intention of discrediting this this gentleman here,
21 this Elder. My whole intention is to prove that my
22 Caddo people were there and to keep my tribe's
23 traditions alive, our oral histories alive, and to
24 prove that we were there. But the point of us
25 being here today is to make sure that those

1 ancestors are reburied and they stay as close as
2 possible to where they need to be, and that is in
3 the area where they were. Thank you.

4 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

5 ARMAND MINTHORN: Thank you. Any comments,
6 questions from the committee?

7 LINDALEE FARM: Mr. Chair.

8 ARMAND MINTHORN: Cissy.

9 LINDALEE FARM: Ms. Francis-Fourkiller, is that
10 correct?

11 TAMARA FRANCIS-FOURKILLER: Yes, ma'am.

12 LINDALEE FARM: Do you object to the Garza
13 having the remains?

14 TAMARA FRANCIS-FOURKILLER: Only that they are
15 not a federally recognized tribe.

16 LINDALEE FARM: You need to have it closer to
17 you.

18 TAMARA FRANCIS-FOURKILLER: Me?

19 LINDALEE FARM: Yes, thank you.

20 TAMARA FRANCIS-FOURKILLER: Only that they are
21 not a federally recognized tribe.

22 LINDALEE FARM: But other than the fact that
23 they are not a federally recognized tribe, do you
24 have any objection to them taking possession of the
25 remains and interring them, as has been presented?

1 TAMARA FRANCIS-FOURKILLER: Yes.

2 LINDALEE FARM: What is your objection?

3 TAMARA FRANCIS-FOURKILLER: As far as I have
4 seen, yes, they are a group but I do not believe
5 that they have proven themselves to be a - per se,
6 a tribe.

7 LINDALEE FARM: Okay. I guess I don't quite
8 understand what you mean by that, if you could
9 explain that a bit more?

10 TAMARA FRANCIS-FOURKILLER: While my people
11 have been here for thousands of years, we have
12 stories. We have our traditions and stuff that
13 date back thousands and thousands and thousands of
14 years. We have oral traditions, and that's who we
15 are. I'm not understanding why they are just
16 coming into being present now.

17 LINDALEE FARM: Go ahead, Patrick.

18 PATRICK LYONS: Mr. Chair, may I?

19 First, I have a question for Dr. Ahlman, and
20 then I have a question for Ms. Francis-Fourkiller.
21 So first, Dr. Ahlman, is it - is my understanding -
22 based on the documents that were submitted, is my
23 understanding correct that the Caddo Nation of
24 Oklahoma was indeed consulted in this process?

25 TODD AHLMAN: Yes, they were. I don't know if

1 they were consulted for the remains from 41HY161
2 during the initial consultation in 1995, but when
3 we received the disposition request and after our
4 discussions with the Miakan-Garza Band, we did
5 consult with them. And then for the remains from
6 41HY163, they were one of the seven tribes
7 initially consulted with by the City of San Marcos.
8 For some reason, the City of San Marcos no longer
9 retains those records, and I'm not sure what their
10 response was or if there was a response from the
11 Caddo Nation. And we did consult with them
12 regarding this disposition request.

13 PATRICK LYONS: Thank you.

14 TODD AHLMAN: Sure.

15 PATRICK LYONS: Okay. One more question for
16 Ms. Francis-Fourkiller, am I understanding the
17 documentary record correctly as has been presented
18 to us that the Caddo Nation did not make a claim of
19 cultural affiliation during the initial
20 consultations but that the action that the Caddo
21 Nation is taking now is a result of the disposition
22 request?

23 TAMARA FRANCIS-FOURKILLER: The action that the
24 Caddo Nation is taking now is the result of my
25 being in the position of Caddo Nation Chairman and

1 THPO and my reorganizing the Caddo Nation area of
2 interest due to research. The previous boundaries
3 of the Caddo Nation were incorrect.

4 ARMAND MINTHORN: Mr. Ahlman, to understand
5 clearly that throughout the presentation there has
6 been mention of two sites.

7 TODD AHLMAN: That is correct.

8 ARMAND MINTHORN: And from these two sites,
9 there are artifacts.

10 TODD AHLMAN: That is correct.

11 ARMAND MINTHORN: So the distinction between
12 these two sites is becoming a bit confusing as the
13 two of you talk. So to understand as well that
14 ancestral remains have come from both of these
15 sites.

16 TODD AHLMAN: That is correct. There are two
17 human remains from site 41HY161 and then there are
18 four individuals from 41HY163.

19 ARMAND MINTHORN: Okay. So we're looking at
20 five individuals.

21 TODD AHLMAN: Six.

22 ARMAND MINTHORN: Six. Okay.

23 UNIDENTIFIED INDIVIDUAL: (Inaudible comment.)

24 ARMAND MINTHORN: Okay. So again, Mr. Ahlman,
25 it's critical that and how consultation is carried

1 out. So to understand too that Texas State has
2 made a determination, and have the Caddo submitted
3 all their information as well in helping and
4 assisting the university in making a determination?

5 TODD AHLMAN: Yes, the information that you
6 have is the information we received from the Caddo
7 Nation. The information that we heard this morning
8 was not part of that information package we
9 received in October.

10 ARMAND MINTHORN: Okay. Well, to understand
11 also, and then Carla, you can help here, is this
12 committee, we can have a motion as an option for
13 consideration for Texas University. And if that
14 motion goes forward then the Caddo would then be in
15 a position to strengthen the testimony that was
16 given this morning and to demonstrate clearly their
17 connection to these ancestral remains. And then it
18 would go back to the university to reevaluate that
19 information, and then the university will be either
20 confirming or having another decision. Is that
21 generally what could happen?

22 CARLA MATTIX: So maybe back up a little bit.
23 I may have missed what your recommendation would
24 be, because based on what your recommendation is
25 will determine how the process moves forward. So

1 your motion would be for a recommendation for - one
2 option is to move forward with the Texas State
3 University's request to provide disposition to the
4 Miakan-Garza Band. That's their specific request.
5 Another option for a recommendation would be to
6 continue to consult with the Caddo Nation based on
7 some of the additional information they may have,
8 as they presented today, since that was not
9 provided already to Texas, but you have a couple of
10 options with your recommendation.

11 We're in the section of the regulation dealing
12 with culturally unidentifiable remains, but it's my
13 understanding unless there's some new information
14 that this is not a 10.11, 43 CFR 10.11 area of
15 culturally unidentifiable because there is no
16 tribal land or aboriginal land identified. So
17 therefore it falls into 10.16 and there is more
18 leeway here because we don't have the tribal land
19 or aboriginal land priority order. So you have
20 some leeway in your recommendation with respect to
21 the State-recognized tribe or other options.
22 Depending on your recommendation, that
23 recommendation actually goes to the Secretary of
24 the Interior for this category of human remains,
25 and the Secretary of Interior will review that

1 recommendation and then decide how to act on this
2 request.

3 ARMAND MINTHORN: Dennis.

4 DENNIS O'ROURKE: Can I just ask a question?
5 Both of you indicated that the primary concern was
6 the reinternment of these individuals as close as
7 possible to where they were removed. Would it be a
8 consideration that you might jointly request, take
9 responsibility, and have them reinterred at the
10 site that's been identified adjacent to where they
11 were recovered, rather than competing claims?

12 TAMARA FRANCIS-FOURKILLER: My concern is that
13 when the Caddos do a repatriation and a reburial,
14 when we do it, we do it very quietly, humbly, and
15 no one knows when we do it. We go in. It's done.
16 There are no news reports. There are no pictures,
17 nothing. It's done. We leave. We come back. The
18 ancestors are undisturbed. That is why we want to
19 reclaim these ancestors so they will receive the
20 proper respect and be reinterred the proper way.

21 The things that I have read in the newspapers
22 about previous reinternments - well, the previous
23 reinternment, I'm sorry, but it didn't make me
24 happy. When we do things, we do things the proper
25 way and we do things because that's the way we're

1 supposed to do them, not for any kind of glory, not
2 for any kind of photo op, not for any kind of thing
3 to impress anyone. We are who we are, because
4 that's the way God made us. I don't have to put up
5 any kind of flag or banner or anything like that.
6 I'm Caddo. I was born Caddo. My people have
7 always been Caddo. I don't have to put up a flag,
8 a banner, or anything like that to prove it. And
9 when I bury my people, no one knows about it. No
10 one knows when I come into town or anything like
11 that.

12 ARMAND MINTHORN: And it is true, your words,
13 all the tribes respectfully rebury their ancestors,
14 all of them do. All of them do, and it's because,
15 just like your words before from our old people and
16 from tradition and custom, our language and song,
17 all tribes are similar in some manners with
18 tradition and culture. Would the Caddo Tribe agree
19 to rebury these ancestors at the site that was
20 specified?

21 TAMARA FRANCIS-FOURKILLER: Yes, we would.

22 ARMAND MINTHORN: Thank you.

23 Steve.

24 STEVE TITLA: Chairman, from your position I
25 don't think you see it, but there's a lady that's

1 raising her hand over there. And so I think she
2 wants to make a comment or something.

3 ARMAND MINTHORN: We do have time for the
4 audience to make comments on the agenda. Is that
5 correct?

6 MELANIE O'BRIEN: We are close to our scheduled
7 lunch break, but that's at your discretion.

8 ARMAND MINTHORN: Cissy.

9 LINDALEE FARM: I have a question for you,
10 Dr. Garza. I'm looking at the documentation that
11 was provided to us, and there seems to be a
12 discrepancy as to how many individuals because you
13 said one femur, four individuals.

14 MARIO GARZA: No, it was five. I'm sorry. I
15 meant five.

16 LINDALEE FARM: Okay, five. And your letter
17 that's dated July 21, 2014, actually says two
18 individuals on site 61 and three individuals on
19 site 63. And what I hear from Dr. Ahlman is there
20 are four individuals.

21 UNIDENTIFIED INDIVIDUAL: (Inaudible comment.)

22 LINDALEE FARM: All right.

23 TODD AHLMAN: So when I reviewed - the
24 consultation that was conducted in 2010 and the
25 final CUI inventory that was completed was

1 completed before I became director for the Center
2 for Archaeological Studies, and my review of the
3 case and review of the report and discussion with
4 other people who know NAGPRA a little bit more than
5 me, they pointed out that actually there were four
6 individuals identified in the osteological report,
7 and we are in the process of updating our inventory
8 to reflect four individuals from 41HY163.

9 LINDALEE FARM: Can I just follow up? Okay, so
10 Dr. Garza, are you requesting all of the
11 individuals at issue, given the updated inventory?

12 MARIO GARZA: Yes, all the individuals,
13 whatever number they happen to be, yes.

14 LINDALEE FARM: Thank you.

15 HEATHER EDGAR: I have a question. I have a
16 couple of questions. One, the first one I'm not
17 sure, Dr. Ahlman, just a clarification because I
18 must have missed this in my reading, I think you
19 said for site 161 that the two individuals, one
20 represented solely by a femur, one dates to 500
21 years ago and the other one to 3,500 years ago. Is
22 that correct?

23 TODD AHLMAN: That is correct.

24 HEATHER EDGAR: And can you please remind me
25 what that dating is based on?

1 TODD AHLMAN: Radiocarbon dating.

2 HEATHER EDGAR: Radiocarbon dating. That's
3 quite - that strikes me as quite a large difference
4 in dating between those two.

5 TODD AHLMAN: Both of those remains were found
6 during construction improvements and I believe, you
7 know, that we have a multi-component site where
8 those were found. We know for sure that there are
9 remains that date from - that there are artifacts
10 that date to 11,000, 12,000 years ago. As the
11 archeologists in San Marcos say, it's the longest
12 continuously inhabited location. We say that
13 there's 13,000 years of occupation there. And so
14 it does not surprise me that they date - that
15 they're so far apart in dating at one site.

16 HEATHER EDGAR: "Continuous" is an interesting
17 word because it implies a permanent settlement.

18 TODD AHLMAN: Yes, I know.

19 HEATHER EDGAR: And maybe that's stretching.

20 TODD AHLMAN: Yes, I know that too. It is
21 good marketing technique for the City of San
22 Marcos.

23 HEATHER EDGAR: And good marketing technique,
24 while interesting and useful, is maybe not the best
25 approach to using the archeological evidence with

1 this committee. My next - the other question I
2 have is about the pictograph panel. I believe that
3 Dr. Garza mentioned that the pictograph panel dated
4 to 4,000 years ago also from radiocarbon dating.

5 TODD AHLMAN: I believe that there's a
6 technique for radiocarbon dating the pigments used
7 in rock art now, and I'm not - I'm far, far from an
8 expert on it but I think that that's how that was
9 used.

10 HEATHER EDGAR: Okay. I believe that there's a
11 lot of error associated with those methods, and I
12 also don't know when that date of 4,000 - if that's
13 a newly arrived -

14 TODD AHLMAN: It's a fairly new date. It's
15 been in the last couple years.

16 HEATHER EDGAR: Okay. One final archeological
17 question is about Caddo pottery or other associated
18 artifacts, artifacts that might be considered
19 Caddoan cultural, are there ones in - are there
20 Caddo artifacts at archeological sites in the San
21 Marcos area, as far as you know?

22 TODD AHLMAN: None that we can directly
23 associate with the Caddo.

24 HEATHER EDGAR: Thank you very much.

25 ARMAND MINTHORN: There is a lady in the back.

1 She keeps raising her hand. Who is that? Can you
2 come up and identify yourself and briefly?

3 HOLLY HOUGHTON: Yes, my name is Holly
4 Houghton. I'm the Historic Preservation Officer
5 and NAGPRA Coordinator for the Mescalero Apache
6 Tribe, and I just wanted to say that Texas State
7 University in their - his description of it, he
8 said that there are no tribal or aboriginal lands
9 within that southern part of Texas, and I disagree
10 with this. We have claimed that area for quite a
11 long time. The Mescalero Apache Tribe is made up
12 of the Lipan Apache, Chiricahua and Mescalero
13 Apache. And the Lipan were in that area. It's
14 documented in the historic record. There's
15 treaties that are signed. Also the Mescalero
16 signed some of those treaties as well.

17 And we did receive a letter regarding the
18 consultation. We called at one point and said that
19 we were against it going to this nonfederally
20 recognized tribe, and we never - I have not heard
21 that or seen that in the documentation that was
22 presented, and I didn't have any follow up from the
23 university after that time. And I was a little
24 upset then when I saw it on this agenda that it was
25 being presented then already, because it was only

1 in September when we received the letter - or
2 actually, it was the beginning of October when we
3 received the letter from the university. And I
4 just don't feel that there was enough consultation
5 for such a decision to be made.

6 I am glad that the Caddo have come forward and
7 offered, and we are fine with that. We would just
8 like to see that it stays within the federally
9 recognized tribes.

10 I would also request that some Federal agency,
11 perhaps the Park Service or that determine - there
12 are several groups within Texas that claim they are
13 State-recognized tribes. When I've talked with the
14 Texas Historical Commission, they say they are not
15 State recognized. The State has acknowledged that
16 they existed within the state of Texas, but they do
17 not have State recognition, which is a different
18 legal stature. And several of those groups are
19 going around saying that they are State-recognized
20 tribes within Texas. Yes, there was a resolution
21 passed by the State of Texas, but as I said, it
22 just says that they acknowledge that their
23 ancestors were within the Texas territory in the
24 past. And I think that is going to come up again
25 in future repatriations where tribes are saying

1 they're State recognized by the State. So I have
2 been trying to get an affirmation from the State
3 government of Texas but at this point have not been
4 able to.

5 The other - we have in the past done
6 repatriations and have repatriated remains within
7 that immediate area of south Texas from the
8 University of Texas and we actually did one
9 jointly, I believe, with this same band where we
10 did the formal repatriation and then together we
11 did the reburial, and that is something else that
12 we are for within that area, or as I said we're in
13 support of the Caddo if they're the ones who wish
14 to go ahead and proceed. Thank you for allowing me
15 to speak.

16 ARMAND MINTHORN: Thank you.

17 TODD AHLMAN: Chairman, might I ask a question
18 of this person?

19 ARMAND MINTHORN: Yes.

20 TODD AHLMAN: Ma'am, could I ask you a
21 question? So it's your contention that there is
22 information about Indian Claims Commission findings
23 and/or ratified treaties that place this
24 archeological site within aboriginal lands as
25 defined by those particular aspects of law?

1 HOLLY HOUGHTON: For the Lipan Apache, yes.
2 And as I said, that we are the only federally
3 recognized tribe that has Lipan Apache. I mean,
4 the White Mountain, there's probably some
5 intermarriage between some of those other ones, but
6 they were brought from one of the mission areas
7 within Texas in 1870 - no, eighties. I'm sorry, I
8 don't remember the exact year, but they were
9 brought to the Mescalero reservation and made part
10 of that community during their expulsion campaign.

11 TODD AHLMAN: Just to clarify, the reason I ask
12 the question is because of the part of the
13 regulations that we're in. Everyone understands
14 why I'm asking that question? Okay.

15 ARMAND MINTHORN: Thank you.

16 What are the wishes of the committee?

17 STEVE TITLA: Chairman.

18 ARMAND MINTHORN: Steve.

19 STEVE TITLA: I have a question for Steve.

20 Steve, our Chairman here indicated that maybe
21 one of the options is to refer it back to Texas
22 State University for reevaluation based upon the
23 recent information we received from Caddo Nation
24 and also the young lady that came up from Mescalero
25 with her information. I don't think we have that.

1 Is that an area - is that an option that can be
2 done?

3 STEPHEN SIMPSON: Yes, as Carla indicated
4 earlier, you can - the committee can recommend to
5 the Secretary that the Secretary further recommend
6 that the Texas State University consult with the
7 Caddo Nation and the Mescalero Apache Tribe based
8 on - further consult with them based on the
9 information that we have heard today. That is an
10 option for the committee.

11 **REVIEW COMMITTEE MOTION**

12 STEVE TITLA: Chairman, I make that motion to
13 refer it back to Texas State University, and based
14 upon what the esteemed counsel said.

15 ARMAND MINTHORN: Is there a second?

16 DENNIS O'ROURKE: I'll second it.

17 ARMAND MINTHORN: Discussion?

18 What Texas University has presented, along
19 with Miakan-Garza Band, and what the Chairwoman has
20 said as well, that there be no disagreement on the
21 reburial site. This was one of the original
22 intended actions that we had here. And yes, the
23 Caddo have presented new information demonstrating
24 and documenting the areas of use. Still there's no
25 disagreement, because the Chairwoman indicated

1 there would be no problem with reburying at the
2 site specified. So for the committee, we don't
3 have a disagreement here. We don't. However, we
4 have a concern by another tribe for the
5 university's process for consultation. And
6 certainly, that needs to be worked on by the
7 university. So again, committee, we do not have a
8 disagreement here. We can proceed forward with the
9 original intent because the two tribes here at the
10 table are both agreed.

11 STEVE TITLA: Chairman, I think that what the
12 Chairman from Caddo Nation indicated was that the
13 manner of reburial. She described a certain manner
14 of reburial, and I don't know whether that is the
15 same manner of reburial as the -

16 MARIO GARZA: There's several basic agreements
17 between most of the tribes, but then there's
18 several differences. And everybody, every tribe
19 has their own way of doing certain ceremonies, and
20 a lot of people think that their way is the only
21 right way, that anybody who does it different is
22 wrong. And here, there were some assumptions made
23 on the way we do our repatriations. The way we do
24 our repatriations, we prepare the remains and we
25 spend - we do a private ceremony, just among our

1 tribe with the remains. We do an all-night peyote
2 ceremony with the remains, and that's a private
3 ceremony that only our tribe, tribal members
4 participate in, and it's not made public.

5 And then the actual repatriation is something
6 different, and then we do it on a different day or
7 the following day or whatever. And the
8 repatriations that we have done, we have not had
9 any photo ops or any of all the other accusations
10 that were made about the way we bury our people.
11 That was very insulting and very disrespectful to
12 make that accusation about the way we buried our
13 people, because we respect our people and we don't
14 do it the way she said.

15 ARMAND MINTHORN: We need to understand that
16 however an ancestor is reburied it's done
17 respectfully. But the intent is all the same for
18 everybody here, get the ancestors back and offer
19 disposition, whatever that may be, including
20 reburial. And it's not for any tribe to say to
21 another tribe what you do is wrong, no. It's just
22 like non-Indians telling another non-Indian what
23 you believe in is wrong. No one can say that.

24 Back home we have several tribes. Our old
25 people have told us and reminded us, maybe this

1 ancestor has shown itself for you as a tribe and
2 this other group as a tribe to get along with each
3 other. Maybe that's what this ancestor is saying.
4 We're reminded of that when we do our work back in
5 the Northwest, about those words. So it's not for
6 us. It's for the care of that ancestor or
7 ancestors. And in order for the care for that
8 ancestor or those ancestors to go forward, I have
9 to get along with you, and we will get along with
10 each other to take care of these ancestors. So
11 these are just some words that we remind ourselves
12 back home how important it is. So again,
13 committee, we do not have a dispute here.

14 STEVE TITLA: Chairman.

15 ARMAND MINTHORN: Steve.

16 STEVE TITLA: I think that earlier, Texas State
17 University indicated - and correct me if I remember
18 wrong. He indicated that there was no aboriginal
19 lands from Caddo Nation in the area that we're
20 talking about. Is that true?

21 TODD AHLMAN: That is true, and I use the term
22 "aboriginal land" based on the language in the law,
23 in NAGPRA.

24 STEVE TITLA: Okay. Then also Mescalero has
25 indicated that the Apache Tribe, that they have the

1 Lipan Apache as aboriginal land that they claim, is
2 what the lady said a while ago.

3 TODD AHLMAN: My information was based off the
4 National NAGPRA website that you can search their
5 database and it's set up by county. If there are
6 aboriginal or tribal land claims, and I looked for
7 Hayes County, and speaking with Melanie O'Brien.

8 STEVE TITLA: So it seems as if there is some
9 disagreement on the aboriginal land status. So
10 today if we agree on disposition, the Mescalero
11 representative indicated that she had no
12 disagreement with Caddo Nation reburial, and Caddo
13 Nation seems to indicate that they have no
14 disagreement with the site of the reburial. Is
15 that correct, Chairman? And that is a site that
16 Garza speaks about the same site? Is that the same
17 site? What site are we talking about?

18 MARIO GARZA: The City of San Marcos, which is
19 the city where the remains were found, has given
20 the Miakan-Garza Band two acres in their 264
21 national preserve to use as a repatriation
22 cemetery. And they also said that if needed, they
23 would give us more land for that. So we do have
24 the land for repatriations. We don't like to call
25 it a repatriation cemetery. We call it a reburial,

1 sacred site, where we can reinter the remains that
2 were removed from that area. So does that answer
3 your question?

4 STEVE TITLA: So there's no disagreement on the
5 site then, and Mescalero agrees with that, I think.
6 I think that's what the young lady indicated a
7 while ago.

8 HOLLY HOUGHTON: (Inaudible comment) agreement
9 on the land, whether it will be protected in
10 perpetuity (inaudible comment). And I don't know,
11 I almost think it would be better if the land was
12 perhaps given to the university or some sort of
13 institution or government rather than a private
14 group of individuals. So that would be my concern.
15 Or if it still stayed as city property but it was
16 delegated to be used as a reburial location, that
17 would be my only issue, so that it is protected and
18 we won't have to deal with trying to find a home
19 back for those remains once again.

20 TODD AHLMAN: I would just like to comment that
21 Texas - in the state of Texas, universities cannot
22 own cemeteries. It would require an act of
23 legislature to allow a cemetery for the university
24 to own it or to have one on our property. And I
25 believe that the City intends to set this land

1 aside as, quote/unquote, "a perpetual care
2 cemetery," and that it will, I believe, and Dr.
3 Garza can correct me if I'm wrong, be maintained by
4 the City of San Marcos in perpetuity.

5 ARMAND MINTHORN: Thank you.

6 PATRICK LYONS: Yes, Chairman, thank you. So I
7 guess one comment I would make is we're lucky in
8 this situation that the representative from Caddo
9 Nation is also the Chairwoman, and so there's an
10 opportunity here to get an immediate resolution of
11 this issue, it would seem, rather than in some
12 cases where people might have to go back to talk to
13 a decision maker. So I think that this is a good
14 thing.

15 ARMAND MINTHORN: Dennis or, I guess, Steve,
16 Dennis. We do have a motion on the floor.

17 DENNIS O'ROURKE: I wanted to ask one question,
18 just clarification from counsel. Twice we've heard
19 concern about the Miakan-Garza Band not being a
20 federally recognized tribe. Is that an issue at
21 all in the disposition request?

22 CARLA MATTIX: It's not in the area of the
23 NAGPRA regulations that we're in, culturally
24 unidentifiable outside of 10.11.

25 DENNIS O'ROURKE: Okay. So that's not an issue

1 for consideration for the committee.

2 ARMAND MINTHORN: Steve.

3 STEVE TITLA: Chairman. Steve, esteemed
4 counselor.

5 STEPHEN SIMPSON: Yes.

6 STEVE TITLA: It seems like we have
7 disagreement on aboriginal land. Texas State
8 University states that Caddo Nation is not in the
9 area of aboriginal land, and Mescalero Apache Tribe
10 and Lipan Apache said that's their aboriginal land
11 too. And Texas State University seems to indicate
12 that it isn't. So if the CUI disposition request
13 is made today, are we agreeing on aboriginal land
14 status? Does that go along with the disposition
15 request, if we approve the request?

16 PATRICK LYONS: Chairman, may I ask the
17 question in a slightly different way?

18 ARMAND MINTHORN: Yes.

19 PATRICK LYONS: I think I know what - so I
20 guess maybe what we're both wondering is are we
21 still in a position to make a recommendation about
22 disposition given our lack of knowledge up here
23 about the question of Lipan Apache aboriginal
24 lands. Is that -

25 STEVE TITLA: Thank you, esteemed colleague.

1 STEPHEN SIMPSON: And thank you both. Yes, you
2 can. One - I mean, there was - we discussed
3 earlier an option for you to make a recommendation
4 for Texas State to continue consultation. Another
5 option, which is I think where the Chairman was
6 heading a little while ago although I'm not sure,
7 was to recommend disposition perhaps to all three
8 of these entities with burial to be at the agreed-
9 upon site. Something like that would not make a
10 difference. There is also - or some other
11 recommendation. This - the issue of whether a
12 tribe has aboriginal land under NAGPRA in a
13 particular area or not is not really - it's a
14 matter for the evidence and a legal call to a
15 certain extent, and is not really dependent upon
16 the outcome of a particular disposition.

17 ARMAND MINTHORN: Yes.

18 MARIO GARZA: Okay. We seem to have an
19 agreement on the burial site. But if you grant the
20 remains to three different tribal entities, which
21 of the tribes is going to prepare the remains
22 according to their tradition? Which of the tribes
23 is going to do the ceremony with the remains
24 according to their tradition that is going to be
25 satisfactory to the other two? Which of the tribes

1 is going to be the actual one that is going to lay
2 their remains on the ground? And it would seem to
3 be having, you know, our burial - our burial rites
4 or ways were already questioned without even
5 attending one of our burial sites or without
6 knowing what our burial sites are. You know they
7 have already been criticized and offended. So with
8 that already happening, what's going to happen if
9 the remains are given to the three or to three
10 tribal entities? And also we seem to be getting
11 hung up on Federal recognition. You know, what is
12 Federal recognition? Right now, we only consider
13 real Indians the ones that have Federal
14 recognition, and what is that? Some White
15 government saying who is Indian and who is not.
16 Some White government that decided to do a treaty
17 with a group of Indians so they could take the land
18 away, so they could send them away from the
19 traditional lands. So we're getting tied to that
20 situation about who's the real Indian. Is that
21 what gives us the definition and tells us who a
22 real Indian is, the only ones that have Federal
23 recognition?

24 I mean, we have been doing our ceremonies for
25 thousands and thousands of years. We have been

1 praying in our language for thousands and thousands
2 of years, but we're not considered real Indians
3 because we're not federally recognized and now
4 we're saying - now they're saying that we're not
5 even State recognized? I mean, we had a very
6 different history, the Indians in northern Mexico
7 and in Texas. And we ended up staying in our
8 traditional homeland, but even because of land we
9 lost about - we lost being federally recognized.
10 So we're pretty much the only Indians that's still
11 in our traditional homelands but we're not
12 considered real Indians because we're not federally
13 recognized. But that happened because of unique
14 history of being colonized by the Spaniards.

15 ARMAND MINTHORN: Thank you. So the actual
16 reburial and/or ceremonies is not for us to decide.
17 That's for the tribes to decide.

18 TAMARA FRANCIS-FOURKILLER: Can I have a
19 rebuttal, please?

20 I am in my traditional homelands. I am a
21 Caddo. This is Oklahoma. This is my traditional
22 homelands. As far as keeping my traditions and
23 everything, this is where the Caddo people are.
24 The middle of downtown Oklahoma City, you want to
25 have an archeological dig or something like that,

1 you'll find Caddo remains, ear spools, everything
2 like that. Like I said before, the Caddo
3 Confederacy spread a long way. Our homeland was
4 all over the place. And as far as the burials and
5 things, the only reason I knew about it was because
6 it was in a newspaper.

7 ARMAND MINTHORN: So committee, we do have
8 another consideration is to amend or have
9 consideration for another motion to include the
10 three tribes.

11 HEATHER EDGAR: I just had a quick
12 clarification. If I remember correctly, the Caddo
13 are actually seeking cultural affiliation with
14 these remains - is that correct? Do you guys
15 remember from the paperwork? - as opposed to
16 disposition under CUI.

17 MELANIE O'BRIEN: That was the initial request
18 that was presented in the materials, yes, was a
19 cultural affiliation.

20 HEATHER EDGAR: Okay. Because that's kind of a
21 different -

22 PATRICK LYONS: May I ask a further clarifying
23 question? And would that not sort of restart the
24 whole process?

25 MELANIE O'BRIEN: Yes, it would be a - it's a

1 different process. It would -

2 CARLA MATTIX: What's before you is a CUI
3 request. This is not a finding of fact or cultural
4 affiliation determination. And if that is
5 something the Caddo Nation would like to bring,
6 they can make that request of the Review Committee.

7 ARMAND MINTHORN: What are the wishes of the
8 committee?

9 PATRICK LYONS: I think it's good to take
10 advantage of the fact that there seems to be
11 consensus among the parties that they want what
12 probably everyone wants; to see the remains
13 reburied as closely as possible whence they came.

14 TODD AHLMAN: I would just like to point out
15 that we have sent multiple letters to the Mescalero
16 Apache regarding this. They did call us once. We
17 returned their phone calls multiple times, and I
18 don't remember the person who called us. That was
19 back in April. We have not received a formal
20 response to either of our consultations, either in
21 March 2015 for the one site or the letters that we
22 sent at the end of September for the other site.

23 LINDALEE FARM: Can I make a motion?

24 ARMAND MINTHORN: Cissy.

25 **REVIEW COMMITTEE MOTION**

1 LINDALEE FARM: I move that we recommend
2 disposition pursuant to the request under 43 CFR
3 10.16.

4 ARMAND MINTHORN: Is there a second?

5 STEVE TITLA: Chairman, I think there's a prior
6 motion in place already I think, and there was a
7 second to that motion.

8 ARMAND MINTHORN: Okay. Was there another
9 motion on the floor?

10 MELANIE O'BRIEN: Yes, the motion that was made
11 by Mr. Titla and seconded by Mr. O'Rourke was to
12 recommend further consultation among the tribes and
13 the university.

14 TODD AHLMAN: And I would just like to say for
15 the university that that is something that we would
16 be happy to undertake as well.

17 LINDALEE FARM: May I ask another question?

18 ARMAND MINTHORN: Yes.

19 LINDALEE FARM: Dr. Garza, would you be happy
20 to undertake further consultation?

21 MARIO GARZA: Well, if that's - like everybody
22 else, our first intent would be to repatriate the
23 remains as soon as possible and to repatriate them
24 as close as possible to where they were removed.
25 And we'll be willing to do whatever it takes to get

1 that done.

2 LINDALEE FARM: And that includes further
3 consultation.

4 MARIO GARZA: If that's the only option, I
5 mean, there's nothing I can do about it. I mean,
6 that's not my first option, but I'm not the one
7 making the decision for you guys.

8 LINDALEE FARM: Let me rephrase, you would not
9 object to -

10 MARIO GARZA: I would not object, no.

11 LINDALEE FARM: How about Ms. Francis-
12 Fourkiller, would you object to further
13 consultation?

14 TAMARA FRANCIS-FOURKILLER: (Inaudible comment
15 - no objection.)

16 LINDALEE FARM: And the individual who was
17 speaking earlier, did you want to be involved - did
18 your tribe want to be involved in consultation?

19 HOLLY HOUGHTON: (Inaudible comment.)

20 LINDALEE FARM: All right, because based upon
21 the documentation that we have, you were listed as
22 having been involved in consultation and no
23 objection having been made. So I just want to make
24 sure that the record is clear that you want to be
25 involved in further consultation.

1 HOLLY HOUGHTON: Yes, the consultation I
2 believe you're referring to was -

3 LINDALEE FARM: I just want a "yes" or a "no,"
4 do you want to be involved?

5 HOLLY HOUGHTON: Yes.

6 LINDALEE FARM: All right. Thank you.

7 ARMAND MINTHORN: Okay. Carla, we have two
8 motions on the floor here, so -

9 LINDALEE FARM: Mr. Chair?

10 ARMAND MINTHORN: Yes.

11 LINDALEE FARM: I'll withdraw my motion.

12 ARMAND MINTHORN: Okay. Now we have one motion
13 on the floor.

14 HEATHER EDGAR: I'll call a vote.

15 ARMAND MINTHORN: Okay. Again, restate the
16 motion.

17 MELANIE O'BRIEN: The motion is to recommend
18 further consultation between Texas State University
19 and the Caddo Nation of Oklahoma, the Mescalero
20 Apache, and the Miakan-Garza.

21 LINDALEE FARM: Could I add a slight amendment
22 to that motion? I would like to put a deadline
23 that consultation take place and that we be advised
24 of the outcome of consultation by our next meeting,
25 which is anticipated to be in June of 2016. And if

1 resolution has happened between - before then, just
2 let us know.

3 MARIO GARZA: Question of clarification. So
4 then the decision is going to be made by Texas
5 State or does it come back to you guys and you guys
6 make a recommendation to the Secretary of the
7 Interior and she makes the decision? What is going
8 to be the process?

9 LINDALEE FARM: I'll defer to legal counsel on
10 that, but I believe you have to come back and go to
11 the Secretary.

12 CARLA MATTIX: It will likely depend on the
13 results of the consultation. If there is some more
14 information on aboriginal land that maybe brings it
15 into - under 10.11, that could change things, so
16 it's really going to depend on the information that
17 comes out at consultation. But if it does not
18 bring it into 10.11, then yes, they will have to
19 come back to the Review Committee.

20 LINDALEE FARM: I just want to make sure
21 everybody understands how that works. Okay, I see
22 nodding heads.

23 ARMAND MINTHORN: Any more discussion?

24 DENNIS O'ROURKE: Call the question.

25 ARMAND MINTHORN: All those in favor of the

1 motion raise your right hand.

2 MELANIE O'BRIEN: In favor, Dennis O'Rourke,
3 Steve Titla, Patrick Lyons, LindaLee Cissy Farm,
4 and Heather Edgar.

5 ARMAND MINTHORN: Abstain?

6 Opposed?

7 Motion carries. Thank you.

8 Melanie, we're going to break for lunch.

9 MELANIE O'BRIEN: Yes, we'll reconvene at 1:00
10 o'clock.

11 **LUNCH**

12 MELANIE O'BRIEN: Please take your seats so we
13 can resume. The next agenda item is a CUI
14 disposition request from the University of Denver
15 Museum of Anthropology, Anne Amati.

16 **ACTION ITEM: CUI DISPOSITION REQUEST, UNIVERSITY OF**
17 **DENVER MUSEUM OF ANTHROPOLOGY**

18 **PRESENTATION**

19 ANNE AMATI: Good afternoon, Mr. Chair, members
20 of the committee. My name is Anne Amati, and I am
21 the NAGPRA Coordinator for the University of Denver
22 Museum of Anthropology. Here with me today are
23 Southern Ute Indian Tribe representatives Alden
24 Naranjo and Cassandra Naranjo. Ute Mountain Ute
25 representative Terry Knight is not able to join us

1 today.

2 We are here seeking your support to move
3 forward with the disposition of culturally
4 unidentifiable Native American human remains and
5 associated funerary objects for which a tribal land
6 or aboriginal land provenience cannot be
7 determined. The University of Denver Museum of
8 Anthropology is a teaching museum dedicated to
9 educating students about the ethical practices of
10 conservation, interpretation, and administration of
11 anthropological collections. The goal of the
12 museum's NAGPRA program is the repatriation of all
13 NAGPRA cultural items in the collection through
14 meaningful consultation with tribes. The museum
15 strives to be proactive in accomplishing this goal.
16 Since 2010, the museum has focused on consulting on
17 the disposition of culturally unidentifiable
18 individuals.

19 The human remains included in our request
20 today consist of 96 individuals and 12 associated
21 funerary objects with no provenience information
22 that are included on the NAGPRA culturally
23 unidentifiable inventory. The museum has
24 determined the individuals are Native American
25 based on the broader collecting practices of the

1 Museum of Anthropology. This finding was
2 maintained by a physical anthropologist employed by
3 the University of Denver prior to November 1995.

4 In February 2015, the museum invited tribes
5 with a legacy of occupation in Colorado to consult
6 with the goal of developing a disposition plan for
7 these 96 individuals and 12 associated funerary
8 objects. Although there is little to no
9 documentation associated with these 96 individuals,
10 Colorado has been their home for approximately 20
11 to 70 years. Through consultation, the Southern
12 Ute Indian Tribe and Ute Mountain Ute Tribe
13 requested transfer of control and to take the lead
14 in reburial if no other tribes came forward. The
15 museum received letters from 18 tribes documenting
16 support for the proposed disposition and decided to
17 move forward under 43 CFR 10.16.

18 In June, the Northern Cheyenne Tribe requested
19 further consultation, and representatives from
20 Northern Cheyenne, Cheyenne and Arapaho Tribes of
21 Oklahoma, Northern Arapaho Tribe, and the Southern
22 Ute Indian Tribe met at the University of Denver in
23 July. At that meeting, the Northern Cheyenne
24 representatives introduced their interest in DNA
25 analysis of the 96 individuals. In a letter

1 received by the museum in September, the Northern
2 Cheyenne Tribe requested that the proposed
3 disposition to the Ute Mountain Ute and Southern
4 Ute Indian Tribe be postponed so DNA analysis of
5 the 96 individuals could be carried out. As a
6 general rule, the museum does not allow testing or
7 research on human remains in the museum's
8 possession or control. Because this request was
9 part of NAGPRA consultation, the museum sought the
10 input of the consulting tribes in order to evaluate
11 the request and make a decision. Of the 48
12 consulting tribes, 24 tribes responded that they
13 opposed genetic testing of the human remains and
14 requested the museum move forward with the NAGPRA
15 process under the proposed disposition plan. Four
16 tribes responded that they did not oppose genetic
17 testing in this case. And three tribes responded
18 that they were not willing to take a position on
19 the question at this time. Based on the feedback
20 received from the consulting tribes, the museum
21 decided not to pursue genetic testing and instead
22 go forward with the decision to present the
23 disposition request to the Review Committee. The
24 museum notified all of the consulting tribes,
25 including the Northern Cheyenne, of the decision in

1 late October.

2 This consultation work was made possible
3 through the financial support of a NAGPRA
4 consultation grant. I'd like to thank all the
5 consulting tribes, especially the Southern Ute and
6 Ute Mountain Ute for their participation and
7 leadership throughout this process. I would also
8 like to thank the National NAGPRA Program staff for
9 their guidance and responsiveness.

10 At this time, I will turn the microphone over
11 to my colleagues.

12 ALDEN NARANJO: Good afternoon, ladies and
13 gentlemen. We come here to not plead or beg or
14 anything like that, but to give you information of
15 what we have been doing in the last few years since
16 we have communication with the University of
17 Denver, and the things that we have done to
18 repatriate and reinter some of the remains and some
19 of the artifacts that needed to go back into the
20 ground.

21 The problem is that sometimes we have
22 agencies, Federal agencies and state agencies that
23 have questions of where these remains come from.
24 So in order to alleviate and expedite the process,
25 we try to work with all the consultant tribes to

1 make sure that we are following the right paths
2 that has been set aside under NAGPRA and also under
3 the laws that has been passed a few years back.

4 One of the things that we also do not want and
5 we've stressed this and there's several other
6 tribes, consultant tribes, that have said that we
7 do not want any DNA testing or any physical
8 analysis of the human remains that are found, but
9 if it was possible that there would be no DNA or
10 any kind of physical analysis done on any of the
11 artifacts or any of the remains. That's our stand
12 that we have. Southern Ute has made that stand and
13 we're still making that stand. So I'm just giving
14 you a little information of where we are at and
15 we'll continue to work with you all and also with
16 all the Federal agencies and the universities and
17 the museums and whatever, concerning remains,
18 concerning artifacts, concerning our ancestors.

19 One of the things that we have a question on
20 is that before the coming of the Europeans into
21 this country and before the establishment of what
22 is now the United States Government, those lands
23 where our ancestors were found belonged to them,
24 belonged to our people. But in order to satisfy
25 and in order to work with the government, we have

1 to go through this process, which has always been a
2 question in my mind why do we have to go through
3 that process. But in order to have our ancestors
4 put back into the ground then we have to follow
5 this.

6 And so maybe somehow or some way there would
7 be a chance that some of this what I call "red
8 tape" would be eliminated so the process of putting
9 these folks back into the ground as soon as
10 possible could be done. Maybe not within my
11 lifetime, but maybe within the lifetime of my
12 grandkids. So that's my concerns that I have, but
13 I'm very glad that I can work with Anne Amati here,
14 and the University of Denver and the rest of the
15 Federal agencies that we work with in the state of
16 Colorado. And I think that we have a good, very
17 good working relationship with all the Federal
18 governments, especially the universities, and I
19 don't think that I could complain too much about
20 that. Thank you.

21 CASSANDRA NARANJO: Good afternoon, members of
22 the Review Committee. My name is Cassandra
23 Naranjo, and I'm an Apprentice NAGPRA Coordinator.
24 And in the two years that I've worked in this
25 capacity, I have noticed a great relationship that

1 we have had with DU. The one thing that we come
2 before you is with these CUIs. It's a fact that
3 they've been sitting on the shelves from between 20
4 to 70 years, and in my mind that is a long time. I
5 have seen processes, we just got done with a
6 reburial that had - of some individuals, and I have
7 been doing that for the past two years. But these
8 ancestors, these people have been sitting on these
9 shelves, and I know they don't have no provenience,
10 but since Colorado has been their home, we think
11 it's only right that they go back and that they
12 need to be reinterred in a timely fashion.

13 One of those things - and so that is why, one
14 of the reasons why we are more than happy to take
15 the lead and to be able, with our sister tribes, to
16 be able to put those ancestors back into the ground
17 and to find a home and place for them so that they
18 may make their journey back and our circle will be
19 complete.

20 So with that, I would - even though there
21 isn't DNA testing, that is against policy, our
22 policy, our tribal policy, DNA testing is also
23 something that we frown upon because in order for
24 that to happen you take a piece of that person.
25 And in our belief system, that takes away from them

1 as a whole, so they are not whole anymore. So
2 that's one of the bases - one reason, not all of
3 the reasons, of why we are opposed to genetic
4 testing and DNA testing. And the place - the other
5 thing is we don't know how those people are going
6 to be handled by the scientists, how they will
7 protect them or how they will be prepared or where
8 they will be stored at. Those things are unknown
9 factors to us, so therefore we're still opposed to
10 it because maybe they're not - won't be done with
11 respect. So with that, that is another reason.
12 But we would come before you to move forward with
13 this disposition so that we may return those
14 ancestors that had been sitting on those shelves
15 for so very long. Thank you.

16 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

17 ARMAND MINTHORN: Anne, so Mr. Terry Knight is
18 not here?

19 ANNE AMATI: No, he - his flight out of Durango
20 yesterday, he had trouble with it, so he is not
21 able to join us unfortunately.

22 ARMAND MINTHORN: So Anne, in your report
23 you're citing 96 individuals?

24 ANNE AMATI: Correct.

25 ARMAND MINTHORN: And 12 associated or

1 unassociated?

2 ANNE AMATI: Associated, 12 associated funerary
3 objects.

4 ARMAND MINTHORN: Okay. Has there been a place
5 chosen where these ancestors may be reburied?

6 ANNE AMATI: Yes, a place has not been chosen
7 but the process of identifying something has
8 started. It has been proposed that we would
9 present it to the Colorado workgroup, the Colorado
10 Lands Reburial group for a recommendation from
11 them. I believe the plan is to be able to rebury
12 next October.

13 ARMAND MINTHORN: Well, just as a note,
14 sometimes when we can understand or even
15 participate with another group it makes it easier
16 to get along with each other. And I would strongly
17 recommend for the committee members that have not
18 been to a reburial ceremony, please participate if
19 you can because it's truly a monumental time for
20 the tribes and the participating agencies to get
21 these sacred remains back in the ground. And us,
22 as Indian people, wherever we come from, we've
23 adapted our culture and our way of life to take
24 care of our ancestral remains. We haven't changed
25 anything within our lives in our cultural ways of

1 life. We've only adapted. And the tribes
2 throughout the nation are going through this same
3 thing. So again, I would urge the committee
4 members, any, if you could participate at this one
5 or any future reburial that the tribes may conduct,
6 please go and participate.

7 Any other comments or questions from the
8 committee?

9 DENNIS O'ROURKE: Mr. Chairman?

10 ARMAND MINTHORN: Dennis.

11 DENNIS O'ROURKE: I guess I just have two. One
12 is, would the interment that takes place be open to
13 public attendance or would it be closed?

14 ARDEN NARANJO: It's closed to the public, but
15 the tribes that are interested can attend. But to
16 the public, media or anything, it's all closed,
17 because I think it's one of the sacred times of
18 putting these remains back into the ground and
19 that's why we don't like to have public. But we'll
20 invite the consulting tribes, if they want to send
21 somebody there to be also there or if they want to
22 participate, that's okay, too.

23 DENNIS O'ROURKE: I just wanted that as a point
24 of clarification. I also wanted to ask another
25 question. Did the Northern Cheyenne indicate why,

1 the reasons for their request for genetic analysis
2 of the remains, and did they know that there were
3 multiple policies against that kind of analysis?

4 ANNE AMATI: So in regards to the Northern
5 Cheyenne's reason for requesting genetic testing,
6 what the tribal representative indicated to me was
7 that they requested genetic testing because they
8 believe that some of the individuals may be
9 Northern Cheyenne ancestors. In terms of the
10 policy question, as a general rule we don't allow
11 testing. It's not a written policy. It's a
12 standard operating procedure. And as I said, we
13 did consult with the tribes on their request. We
14 carefully considered their request, and based on
15 the feedback from the consulting tribes we decided
16 to not pursue the genetic testing.

17 DENNIS O'ROURKE: Thank you.

18 ANNE AMATI: You're welcome.

19 ARMAND MINTHORN: Cissy.

20 LINDALEE FARM: Since you wrote to the Northern
21 Cheyenne on October 19, 2015, I'm assuming you
22 notified them.

23 ANNE AMATI: Correct.

24 LINDALEE FARM: Did you hear a response back
25 from them?

1 ANNE AMATI: Yes.

2 LINDALEE FARM: And what was their response?

3 ANNE AMATI: They're not happy.

4 LINDALEE FARM: Is anyone here today from the
5 Northern Cheyenne Tribe? I don't see a response.
6 So they knew - well, based upon your letter to
7 Ms. O'Brien, you informed them that you would be
8 proceeding today.

9 ANNE AMATI: Correct.

10 LINDALEE FARM: And no one is here.

11 ANNE AMATI: Correct.

12 LINDALEE FARM: Okay. Thank you.

13 ARMAND MINTHORN: Any other further comments or
14 questions from the committee?

15 PATRICK LYONS: Mr. Chairman, I would just -
16 this is another case where we have, what, 48 tribes
17 involved in consultation?

18 ANNE AMATI: Yes, so there are 48 tribes that
19 are identified as having a legacy of occupation in
20 Colorado. We decided to consult with those 48
21 tribes based on the idea that these individuals,
22 while we don't know where they're from, their home
23 is Colorado because that's where they are now. I
24 invited 48 tribes to consult. I did not talk to
25 all 48 tribes. So I don't - maybe you could -

1 PATRICK LYONS: Well, I just wanted to comment
2 that this is a really good faith effort, I think,
3 in my opinion, to really reach out and try to make
4 sure you're getting to all the right people in that
5 area.

6 ANNE AMATI: Thank you.

7 ARMAND MINTHORN: What are the - what's the
8 recommendation of the committee?

9 **REVIEW COMMITTEE MOTION**

10 DENNIS O'ROURKE: Move we approve the
11 disposition request.

12 ARMAND MINTHORN: Is there a second?

13 LINDALEE FARM: Second.

14 ARMAND MINTHORN: Discussion?

15 All those in favor of the motion, raise your
16 right hand.

17 MELANIE O'BRIEN: Those in favor, Dennis
18 O'Rourke, Steve Titla, Patrick Lyons, LindaLee
19 Cissy Farm, Heather Edgar.

20 ARMAND MINTHORN: Opposed?

21 Abstain?

22 Motion carries. Thank you.

23 ANNE AMATI: Thank you.

24 ALDEN NARANJO: Thank you.

25 ARMAND MINTHORN: Okay. Moving on.

1 MELANIE O'BRIEN: The next item on the agenda
2 is the Colorado Lands for Repatriation and Reburial
3 Workgroup, Sheila Goff.

4 **PRESENTATION: COLORADO LANDS FOR REPATRIATION AND**
5 **REBURIAL WORKGROUP**

6 **PRESENTATION**

7 SHEILA GOFF: All right. Good afternoon,
8 Chairman, members of the committee. My name is
9 Sheila Goff and I'm the current NAGPRA Liaison at
10 History Colorado in Denver. And I'm a member of
11 the Colorado Lands for Repatriation and Reburial
12 Workgroup, and I'm here on their behalf to just
13 give an update over what has happened since the MOU
14 that was signed at the end of December 2013 went
15 into effect.

16 Some of you have heard of this. Some of you
17 are new to the committee, so just a very brief
18 piece of background on that. The workgroup was
19 established to improve the process for identifying
20 State, tribal and Federal agency lands within
21 Colorado that are suitable for reburial of Native
22 American human remains and funerary objects in the
23 possession of Colorado museums and/or that
24 originated in the state of Colorado that have been
25 repatriated or dispositioned to tribes under

1 NAGPRA. The formation of the workgroup, I need to
2 emphasize, was tribally driven. The Southern Ute
3 Indian Tribe and the Ute Mountain Ute Tribe were
4 facing the issue of finding suitable reburial
5 locations in Colorado, and they called forth a
6 meeting of state and Federal agencies to discuss
7 this problem. They also brought forth the issue in
8 2012 in Santa Fe at the NAGPRA Review Committee
9 meetings. And just as a reminder, I'll tell you
10 who the signatures to this MOU are. It's three
11 agencies from the State of Colorado - the Colorado
12 Commission of Indian Affairs, the Department of
13 Natural Resources, and my agency, History Colorado;
14 the Ute Mountain Ute Tribe; the Southern Ute Indian
15 Tribe, the United States Department of Agriculture,
16 Forest Service, Rocky Mountain Region; the U.S.
17 Department of Interior, National Park Service,
18 Intermountain Region; the Bureau of Land
19 Management, Colorado State Office; and U.S. Fish
20 and Wildlife Service, Mountain-Prairie Region. And
21 I do have to point out that all signatories to the
22 agreement are bound by certain authorities within
23 their respective agencies or tribes.

24 Thus far, entities making requests for
25 assistance with finding lands for reburial include:

1 the University of Colorado, the University of
2 Denver, History Colorado, and Denver Museum of
3 Nature and Science. I want to make a little side
4 note too. Some of you have heard about our state
5 process for taking care of culturally
6 unidentifiable individuals that come from state and
7 private lands. We do, as a State, have set aside
8 lands for the disposition and reburial of those
9 individuals but it doesn't cover all of the other
10 cases, such as the affiliated individuals that come
11 under the control of my agency, as well as other
12 museums.

13 So far, the workgroup has met five times.
14 It's received 19 requests. We've been able to
15 resolve 9 of those requests - I have to take that
16 back, now 10. We ended up being able to do a
17 reburial in the fall of this year just recently.
18 And of those 19 cases then, we have plans for
19 another reburial underway and then we have 2
20 requests that are still under or requiring some
21 additional research. That left us with eight cases
22 that are unable to be resolved, and that is because
23 of the authorities that we're all bound by. That
24 largely involves individuals that either originated
25 outside of the state of Colorado but ended up being

1 in institutions within the state of Colorado or
2 those with unknown origin. I'll talk about that in
3 just a second.

4 Right now as it stands then, we hope, all of
5 us in general, that the signatories to this MOA
6 will go back and be able to look at their policies
7 and their procedures and see if there is some way
8 to become a bit more flexible to allow reburial of
9 the individuals that don't currently fit under the
10 authorities that they must follow. And I'm not
11 sure where to go with this, just a second, you can
12 help me out, okay?

13 For a second to conclude then, I just want to
14 say we really appreciate your time, the entire
15 group, listening to the issues that we've had over
16 the last couple of years, bringing this forth to
17 Congress so that hopefully some sort of resolution
18 or improvement can occur, not only for us in
19 Colorado but across the nation.

20 And then I guess I'll say in response to the
21 request or the authorization that I hope will go
22 forward for the University of Denver, while those
23 individuals do not currently fit under the criteria
24 for the signatories, we have some - we're
25 undergoing some discussions to come up with an

1 alternative that will be acceptable to the tribes
2 and that won't violate anyone's authorities. Let
3 me just say that.

4 So having said that, I'll turn this over to
5 our tribal partners to make any comments that they
6 wish to make.

7 ALDEN NARANJO: Again, thank you, members of
8 the committee and all the ones that came here from
9 far and near. We've established this workgroup
10 with the Federal government and some of the museums
11 and universities because of the problem of trying
12 to find places where we can reinter our ancestors.
13 It took a while for us to finally come together to
14 sit at one table. For all the Federal agencies
15 within the state of Colorado to come and sit at one
16 table along with the consultant tribes and also
17 different entities that are interested in the human
18 remains and also all of that - you know, the
19 process of trying to go through and find places to
20 reinter these folks.

21 We've come a long ways. I think it's been
22 maybe 15, 10 or 15 years in order for us to finally
23 sit at one table. Because of our perseverance in
24 trying to sit together and discuss this and try to
25 find grounds and land and places where we can

1 reinter our ancestors has been a long process.
2 We've followed the law. We followed the State
3 process. We've followed all the things that we
4 could, so now we come to a time that some of the
5 universities doesn't and some of the places don't
6 fit under the criteria that we have or the process
7 that goes with it. So that's why we have this
8 Colorado Lands Group to consult tribes and the two
9 tribes, the Southern Ute and Ute Mountain.

10 I guess one of the things that we want to do
11 is to continue to make this stronger, and to
12 continue to make it a process that can be done
13 throughout the state with all the Federal agencies,
14 from the west side of Colorado to the east side of
15 Colorado, because sometimes agencies have their own
16 ideas of what should be done. But following along
17 with History Colorado and the work that Sheila does
18 and the Colorado Commission of Indian Affairs,
19 we've come a long ways putting this together,
20 making it a reality for ourselves and also for our
21 ancestors. So now we want to continue that
22 process. We want to go forward. We want to
23 expedite the process of putting our ancestors away,
24 so what we want is that somehow that we can also
25 continue to build upon what we have built, this

1 Colorado Lands Workgroup, so that maybe eventually
2 it would become a model throughout the United
3 States, because I think it's good that we can sit
4 together with the Federal Government and all the
5 agencies and everybody to come together and be on
6 the same page. So that's what we're hoping that we
7 can do and hopefully that we can continue this
8 process, but we have been working together for a
9 good number of years, so that's part of what we're
10 doing, so thank you.

11 BETSY CHAPOOSE: Good afternoon. I'm Betsy
12 Chapoose. I'm the Cultural Rights and Protection
13 Director for the Ute Tribe in Utah. Our homelands
14 or the heart of our homelands is in Colorado. We
15 were forcibly removed to Utah. So for this land
16 committee, it's very important to us because we
17 have ancestors in Colorado and culturally we like
18 to reinter as close as we can, and not having any
19 lands that are given to us, we have to rely to our
20 two sister tribes, the Ute Mountain Utes and
21 Southern Utes to assist us in doing the
22 reinternment there.

23 And so this process has been something that
24 has been very important, I think, for a lot of
25 tribes, as they mentioned, 48 tribes that were in

1 the region. And so it's very important that we do
2 find lands that can be utilized, whether they're
3 State, Federal or any type of lands like that
4 because one of the things is our ancestors didn't
5 have any political boundary lines. So that's one
6 thing about this reinternment, that if we can find
7 lands as close as possible, it's very hard.

8 In Utah, I sit on the Utah State Human Remains
9 Review Committee, and we are going through this
10 process of trying to find appropriate lands to
11 reinter our ancestors on that the State holds. So
12 this committee has been very important in watching
13 them and how they have worked through the process.
14 And although it's a timely process to get to the
15 point that they have been, we are trying to - we're
16 not making much headway, but we're trying to
17 replicate what Colorado is doing. I thank you for
18 your time.

19 CASSANDRA NARANJO: And I just want to
20 reiterate what my colleagues have said and concur
21 with what they have said. I think one of the
22 obstacles and that we might have to get inventive
23 with is finding lands for those that are against
24 policies that are so stringent, that are really
25 nonflexible, and that might be - I think that's our

1 next step is to figure out how to go forward when
2 there are Federal guidelines and state guidelines
3 within each respective agency, within each region,
4 that some are not flexible as far as the lands go.
5 And I think part of that is that we at the
6 workgroup are going to have to either go back,
7 because we have - we have remains that are
8 affiliated that are right over the state line but
9 that we know are Ute, but we cannot put them in our
10 - we cannot reinter in Colorado because of those
11 guidelines and because of those policies. And so
12 that is something I think that needs to be looked
13 at, I guess at a higher level than where we're at,
14 as far as how can those things be picked especially
15 when it comes to reinternment and especially when
16 it comes to those state line boundaries, because
17 like it was mentioned before that aboriginal lands
18 didn't have a boundary, you know. They weren't -
19 there were no states then.

20 And the other thing is that I think that we
21 have come a long way, that I am new to the - I am
22 new, but I was there when the signing was for the
23 MOU for that workgroup. And I think as I've sat on
24 that workgroup, I've seen a lot of good things come
25 out of it and I've also seen some of the

1 difficulties of having to turn away or table
2 something because of those guidelines that we are
3 bound by in our MOUs and within those - within the
4 policies of the State. Thank you.

5 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

6 ARMAND MINTHORN: Sheila, just offhand and
7 there's no need to mention all of them, but what
8 Federal agencies are in the state of Colorado?

9 SHEILA GOFF: We have BLM, Park Service, Fish
10 and Wildlife, who am I forgetting, BOR, Bureau of
11 Rec, U.S. Forest Service, did I say them? I think
12 that's it off the top of my head.

13 ARMAND MINTHORN: Is there Army Corps?

14 SHEILA GOFF: Army Corps? There are some Army
15 - that's true. There are Air Force and Army bases
16 there.

17 ARMAND MINTHORN: Okay. Well, this working
18 group, there's a need to commend the work that you
19 do. It's good work. And if there's anything that
20 the committee can do to help, let us know. It is a
21 struggle to find places to rebury our ancestors.
22 We have on our agenda our report to Congress, and
23 we're going to cite this in the report, again to
24 Congress that we need to work with Congress to help
25 find places for reburial of our ancestors on

1 Federal lands or elsewhere.

2 From experience, and we can certainly learn
3 from each other and that's part of the tone of this
4 meeting here it to learn from each other, and to
5 try to help each other the best that we can with
6 the effort of taking care of our ancestors. As an
7 example, at home in the Northwest, in the general
8 principle that we follow is we try to rebury the
9 ancestor at or near the original site they came
10 from. The circumstance with us is we reburied one
11 of our ancestors in a non-Indian cemetery. There
12 was no objection, because the ancestor was put near
13 the original site that they were uncovered. So
14 that was an example. Another example is again in
15 the Northwest, we've done numerous reburials on
16 National Park land, numerous. And there are
17 numerous parks in the state of Oregon but we've
18 done reburials on National Park lands.

19 I don't know how it is with the state of
20 Colorado. They have state parks. The state of
21 Oregon, too, we have state parks, and we've done
22 numerous reburials in state parks as well. Then
23 the final example is when we can't rebury at or
24 near the original site because of circumstances
25 that are beyond our control, we go to our Indian

1 cemeteries at home. We've done many reburials in
2 our cemeteries on the reservations. So those are
3 examples of places and circumstances that we've
4 done reburials, so if that may help that would be
5 great, but these are just examples that we've gone
6 through and experiences in reburying our ancestors.

7 SHEILA GOFF: And if I could just say one other
8 thing from my experience that is particularly
9 moving to me. I don't want to say tribes' names or
10 places, because I'm not comfortable doing that.
11 But we have had two situations now where a tribe,
12 one tribe is occupying the aboriginal territory of
13 a former tribe and that tribe has offered land up
14 for folks to go back to where they were, even
15 though it's no longer their reservation and, I
16 mean, that level of collaboration is amazing to me.

17 PATRICK LYONS: Chairman?

18 ARMAND MINTHORN: Yes.

19 PATRICK LYONS: And again, I'm not going to
20 mention tribes, individual tribes or places either,
21 but that same sort of thing is going on in Arizona
22 right now, and it's really great to see.

23 ARMAND MINTHORN: Any other comments,
24 questions? Yes.

25 ARDEN NARANJO: Is there a possibility that the

1 committee could make a recommendation to the
2 Secretary of Interior that there would be maybe a
3 uniform policy for reburials? I know that's kind
4 of almost an impossible deal but I know that's one
5 of the things that we've kicked around in our
6 discussions over the years. Is there a possibility
7 that there would be a uniform process of taking
8 care of the ancestors? We have state process. We
9 have NAGPRA. We have all of that, but sometimes
10 that's not adequate. And so because of that our
11 hands are tied sometimes, and because of that, we
12 have frustrations. And because of that, we have
13 not animosities but we have become upset with one
14 another because of claims that have been made.

15 And the other thing is that - one more thing
16 is that because of history, ancestral lands and all
17 this have come and the recent amendment to NAGPRA
18 is that why was the land commission findings the
19 most important when because prior to that treaties
20 were made with different tribes over the years
21 prior to that. So my question has been how did
22 that come about that the land commission's findings
23 were more important than the treaties that was made
24 with the United States Government? That's my
25 question.

1 ARMAND MINTHORN: Well, Carla, you can help
2 here. To understand the Secretary of Interior has
3 oversight over lands specifically with Interior,
4 including U.S. Fish and Wildlife, Forest Service -
5 no? Okay. But anyway, the point being is the
6 Secretary has jurisdiction over certain Federal
7 lands, so we can certainly make that request to the
8 Secretary, but the other Federal agencies too, we
9 are going to put on the schedule for them to report
10 regularly to this committee, and it will be raised
11 to each Federal agency how can you help tribes with
12 reburial on your Federal lands. Carla?

13 CARLA MATTIX: You don't need me. That's the
14 answer. And also what you've mentioned before in
15 your report to Congress, Congress certainly has the
16 ability over more Federal agencies - the ability to
17 make changes in statutes that do restrict some of
18 these types of things, so that's the place is in
19 your report to Congress and recommendations in
20 there, for some sort of uniform approach to this
21 issue.

22 ARMAND MINTHORN: So finally, and again, thank
23 the Colorado Workgroup for your report. Please
24 keep us updated, and again if there's anything that
25 the committee can do in addition to getting the

1 attention of the Secretary, let us know. We'll do
2 what we can to help you. Thank you.

3 MELANIE O'BRIEN: We're right on time,
4 Mr. Chair. Next on the agenda is Mary Carroll with
5 the National Park Service.

6 **PRESENTATION: NATIONAL PARK SERVICE, PARK NAGPRA**

7 **PRESENTATION**

8 MARY CARROLL: Sorry, bear with me. I want to
9 make sure everybody can hear. I just need to
10 experiment to make sure I hit the right button to
11 go forward and back. Yes.

12 Okay, thank you. Good afternoon, Mr. Chairman
13 and members of the committee. Thank you for the
14 opportunity to update the committee on the status
15 of NAGPRA compliance within the National Park
16 Service. My name is Mary Carroll, and I'm the
17 Program Manager for the Park NAGPRA Program, the
18 office that oversees NPS's compliance
19 responsibilities under NAGPRA. Park NAGPRA is part
20 of the Tribal Relations and American Cultures
21 Office, which is a division of the Washington
22 office's Cultural Resources, Partnerships and
23 Science Directorate. While the Park NAGPRA office
24 is located in Denver, Colorado, we provide
25 technical advice, guidance and training in close

1 cooperation with regional NAGPRA coordinators to
2 all National Park units, centers and regions across
3 the country, from Maine to Hawaii. Sorry, it's a
4 little awkward holding this and trying to read my
5 presentation.

6 The National Park Service continues to work in
7 partnership with Indian tribes and Native Hawaiian
8 organizations to achieve NAGPRA's goals. Since the
9 law was enacted 25 years ago this week, NPS has
10 published 163 Notices of Inventory Completion that
11 describe at least 4,930 individuals and 90,108
12 associated funerary objects; 4,368 of those
13 individuals and 42,671 of those associated funerary
14 objects have been repatriated to the appropriate
15 lineal descendants, Indian tribes or Native
16 Hawaiian organizations; 562 individuals and 47,437
17 associated funerary objects have not been returned.
18 While the number of funerary objects not yet
19 repatriated appears quite high, more than 43,000 of
20 those items are individual beads associated with 18
21 individuals from 3 different parks.

22 It's important to understand why these human
23 remains and funerary objects are still in Park
24 Service control. We expect to repatriate 43
25 individuals and 493 associated funerary objects

1 later this fiscal year; 206 individuals and 523
2 funerary objects are accounted for by pending or
3 recently published notices or notice corrections.
4 Competing claims and withdrawn claims account for
5 10 individuals and 67 associated funerary objects.
6 And finally, no claims have yet been received by
7 the parks for 303 individuals and 46,354 associated
8 funerary objects. The NPS is committed to
9 repatriating all Native American human remains and
10 associated funerary objects in its control and
11 parks continue to work with Indian tribes and
12 Native Hawaiian organizations to care for their
13 ancestors appropriately and respectfully, and to
14 return them home when the tribes are ready to
15 receive them.

16 I'd like to turn now to the General
17 Accountability Office's 2010 Review of Federal
18 Agency Compliance. The GAO's final report
19 described NPS as one of the top three agencies for
20 compliance. However, the GAO did find that some
21 National Park Service draft Notices of Inventory
22 Completion submitted years ago had not yet been
23 published. In light of how much time had passed
24 since the notices were originally written, these
25 unpublished drafts had been withdrawn from the

1 publication process so that the parks could verify
2 their NAGPRA inventories, consult with Indian
3 tribes, confirm or revise the determinations of
4 cultural affiliation, and complete notice
5 publication. Eight of the ten parks that were
6 identified in the GAO report have since published
7 the notices. Only two, Lake Meade National
8 Recreation Area and Canyon de Chelly National
9 Monument, have not yet published a Notice of
10 Inventory Completion. A notice for Lake Meade is
11 in progress and nearing completion. Canyon de
12 Chelly is the subject of an ongoing lawsuit which
13 contests the park's legal authority to undertake
14 the NAGPRA process, and so notice publication is
15 unavoidably delayed.

16 In order to facilitate NAGPRA compliance
17 across the service, Park NAGPRA has implemented
18 several initiatives over the past ten years. In
19 2005, Park NAGPRA initiated an internship program
20 to provide opportunities for students to work in
21 park centers and offices nationwide on NAGPRA
22 projects and give hands-on help to parks with
23 immediate NAGPRA needs. The program was project
24 oriented in that we solicited proposals from parks
25 for projects that addressed high-priority NAGPRA

1 needs. Recipient parks were responsible for hiring
2 interns and were encouraged to solicit applications
3 from Native American students. The interns'
4 salary, benefits and travel expenses were paid by
5 Park NAGPRA. The intern program was a valuable
6 tool for helping parks comply with NAGPRA and for
7 providing a variety of learning opportunities for
8 students, but unfortunately, it has been on hiatus
9 since 2012 due to a lack of funding.

10 In 2008, Park NAGPRA implemented a training
11 program targeted to park superintendents and
12 resource managers, as well as archeologists,
13 curators, and other NPS staff with NAGPRA duties.
14 The one-and-a-half-day training sessions provide a
15 comprehensive overview of NAGPRA and prepare
16 participants to respond to inadvertent discoveries
17 and plan for intentional excavations as prescribed
18 by the law. There have been at least two to three
19 face-to-face classes, either at parks or in
20 regional offices, each year until 2014.
21 Unfortunately, travel restrictions have had a
22 negative effect on our ability to conduct face-to-
23 face training and only one classroom session
24 occurred in 2015. So the focus for future training
25 will be more distance learning via online webinars,

1 as well as classes in regional offices or parks as
2 possible. The first training via webinar was
3 initiated in September 2014 and two more were
4 conducted in 2015. Registration for all of the
5 webinars so far has been at or over the enrollment
6 cap indicating that there is still a strong need in
7 the field for NAGPRA guidance.

8 Another way we are addressing that need is
9 through Park Service's online Cultural Resources
10 Career Academy. Still in development, the career
11 academy is an effort to provide internal online
12 resources and networking in one place for cultural
13 resource professionals throughout the Park Service.
14 We're currently working on a NAGPRA Help Center
15 that will include such things as frequently asked
16 question, sample documents, redacted as
17 appropriate, and a place to ask an expert. I'm
18 hoping that the Help Center will be completed early
19 next year in time for the official launch of the CR
20 Career Academy.

21 In the past, notable activities across the
22 Park Service have been highlighted in these
23 presentations to the Review Committee. The
24 Intermountain Region's multi-park project to
25 proactively address culturally unidentifiable

1 inventories, the high-tech project that allowed
2 Natchez Trace to rebury remains in the same burial
3 pits from which they were removed, and the Alaska
4 Region's positive experience working with Alaska
5 Native villages, the National Science Foundation
6 and Alaska State agencies on an inadvertent
7 discovery at Kobuk Valley National Park.

8 But there are challenges to moving forward
9 with the NAGPRA process, and I'd like to highlight
10 a few today. First, as for all Federal agencies,
11 tight budgets will likely be a problem for the
12 foreseeable future. There's not much we can do
13 about it, but work with what we have. It is
14 unavoidable and it is across-the-board. It's
15 certainly not specific to NAGPRA. Second, NPS no
16 longer has separate funding for NAGPRA compliance.
17 As I noted earlier when GAO did its audit of
18 Federal agencies, it named NPS as one of the top
19 three. One of the reasons cited was that we had a
20 separate, agency-wide budget for NAGPRA activities
21 that enabled us to award roughly 500,000 dollars to
22 regions and parks every year through a competitive,
23 needs-based process. Unfortunately, that separate
24 fund no longer exists. Now, NAGPRA projects must
25 compete with cultural resource projects in

1 archeology, anthropology, historic structures,
2 museums, cultural landscapes and history, for
3 limited and declining resources. Finally, loss of
4 expertise is becoming an issue. In the National
5 Park Service, each of the seven regions has a
6 regional NAGPRA coordinator. In most regions, that
7 role is assigned to the regional cultural
8 anthropologist. Over the last few years, several
9 regional NAGPRA coordinators have retired or moved
10 on to other jobs or positions in the Park Service.
11 Unfortunately, replacing that staff has been
12 hampered by limited budgets. One region hasn't had
13 a regional anthropologist, and therefore NAGPRA
14 coordinator, for almost two years.

15 In spite of these barriers, Park NAGPRA
16 Program will continue to provide guidance and
17 assistance to meet the requirements of the law and
18 training to build the NAGPRA related skillsets of
19 NPS staff as best we can. Thank you. I'd be happy
20 to answer any questions you might have.

21 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

22 ARMAND MINTHORN: Any comments, questions from
23 the committee? Dennis.

24 DENNIS O'ROURKE: I'd just like to say thank
25 you for the report. Do you happen to know the

1 outcome and reburial status of the materials from
2 Kobuk Valley?

3 MARY CARROLL: Off the top of my head, I'm not
4 sure. I could get that pretty quickly, but I know
5 -

6 DENNIS O'ROURKE: I know the process, I just
7 didn't know how far along it was yet.

8 MARY CARROLL: They - I'm not sure where they
9 are either. They're not required to report to me,
10 but I do check in with Eileen periodically. So I'm
11 afraid I can't - don't have an immediate update for
12 you.

13 ARMAND MINTHORN: Question, Mary, we've heard
14 from several groups here today about the problem of
15 finding lands for reburial. Can your office help
16 with this?

17 MARY CARROLL: Well, the Park Service policy -
18 there is a policy for reburial in the National
19 Parks. It's pretty basic. It is that if remains
20 and objects were removed from park lands, they can
21 be reburied on those park lands. There's a little
22 bit of flexibility in that, which I won't quite get
23 into here, but my office can't really do anything
24 about changing that policy. It has to come from
25 higher up. But even if - we can rebury remains on

1 park lands, if they came from those lands, even if
2 the Park Service does not have the control under
3 NAGPRA. For instance, if - well, an example years
4 ago was from Pecos National Historical Park, a lot
5 of those remains were removed from before it became
6 a park and they were at, I think, the Peabody. So
7 because it wasn't park land when they were removed,
8 the museum had the control and they went through
9 the process as it's laid out under NAGPRA, but the
10 repatriation and the reburial did occur on - within
11 the boundaries of the current park. But we are
12 bound by the national policy, and there's not a lot
13 we can do about that. We can't really accept
14 remains from other places to be buried on park
15 lands the way it stands right now.

16 ARMAND MINTHORN: Any other comments? Cissy.

17 LINDALEE FARM: Mr. Chair. So Mary, when you
18 say it needs to come from higher up - and you have
19 to forgive me. I don't know much about the Federal
20 government and the hierarchy. What do you mean by
21 that?

22 MARY CARROLL: Well, and I am not terribly
23 conversant on the intricacies of policy changes
24 either. So I'm afraid - I know that I don't have
25 much ability to initiate that process.

1 LINDALEE FARM: Fair enough. I just thought
2 maybe there was some entity or person or -

3 MARY CARROLL: Well, the Park Service has a
4 policy office.

5 ARMAND MINTHORN: Carla.

6 CARLA MATTIX: (Inaudible comment) either under
7 the current National Park Service management
8 policy, a park unit can request a waiver of the
9 policy, but that does have to go through several
10 levels and get approved by the directorate. It
11 goes to the regional director and then gets
12 approved by the directorate. A more permanent
13 change in policy comes every - there's no set time
14 to review the overall National Park Service
15 management policies; it's a published volume that
16 the National Park Service has. There was - the
17 most recent overall change in that was done in
18 2006, and before that 2001. But there's no set
19 timeframe. They do get revised after a number of
20 years, and that would be the time to reconsider any
21 current policies.

22 MARY CARROLL: And I will say that we - there
23 has been one waiver to policies in the Park Service
24 a few years back that was based on an agreement
25 between - it was a park and forest lands abutted

1 each other. They had had an agreement for
2 reburials that had expired, the agreement had
3 expired, and then another situation came up with
4 human remains and so they requested a waiver based
5 on that historical agreement and it was allowed,
6 but it's not the norm. It's not an easy process to
7 get a waiver.

8 ARMAND MINTHORN: Any other questions or
9 comments? Thank you.

10 MARY CARROLL: Thank you.

11 ARMAND MINTHORN: Before we take a break,
12 Melanie, I have one question for Tennessee Valley.
13 Are they still here?

14 MELANIE O'BRIEN: Yes, they are.

15 ARMAND MINTHORN: Tennessee Valley, you've
16 heard many of the concerns and frustrations the
17 tribes are having in locating reburials and places
18 to rebury. Does Tennessee Valley - can they offer
19 some help with this problem?

20 THOMAS MAHER: I wish I could say yes, but TVA
21 is still in the midst of a process of finding large
22 tracts of land for things that came from TVA's
23 land. Because we have a very serious looting
24 problem on TVA land, we have to find spots where we
25 can have some assurance of security. And although

1 one would say the nuclear plants would be a great
2 idea, the NRC is not interested in having non-
3 nuclear activities, let's say, behind the fences.
4 So once TVA has identified, I hope, multiple places
5 for reinternment for all these many objects, NAGPRA
6 items that are under its control, then we - then we
7 might consider things in our region. But I don't
8 want to promise what I can't deliver since I still
9 can't deliver a place for the things that are under
10 our control. I do say that our management has
11 tackled this at the highest level in trying to
12 identify places that we can be sure of the
13 security.

14 ARMAND MINTHORN: Okay. Thank you. If you
15 can, Tennessee Valley, keep us updated.

16 PATRICIA EZZELL: I just want to clarify - this
17 is Pat Ezzell with TVA. I do want to clarify that
18 right now what we do is when we do reinternments
19 after we've gone through the NAGPRA process, we do
20 rebury and it's typically as close as possible to
21 the original site. So that is our process. What
22 Tom is referring to, we are also looking for large
23 parts of land to - large parcels of land to be
24 reinternment cemeteries. So we kind of have two
25 approaches that we're looking at right now. I just

1 want to clarify that we do rebury if it came from
2 TVA land currently.

3 ARMAND MINTHORN: Thank you.

4 Melanie, let's take a break.

5 MELANIE O'BRIEN: Yes, sir. Five minutes? Ten
6 minutes?

7 ARMAND MINTHORN: Ten minutes.

8 MELANIE O'BRIEN: Ten-minute break. Thank you.

9 **BREAK**

10 MELANIE O'BRIEN: Okay, if you can please take
11 your seats, we're going to get started. The next
12 item on the agenda is a presentation from the
13 Forest Service, Frank Wozniak.

14 **PRESENTATION: FOREST SERVICE**

15 **PRESENTATION**

16 FRANK WOZNIAK: Chairman Minthorn, members of
17 the NAGPRA Review Committee, my name is Frank
18 Wozniak. I am the National NAGPRA Coordinator for
19 the USDA Forest Service and the NAGPRA Coordinator
20 for the Southwestern Region of the Forest Service.
21 I wish to thank the chair and the committee for
22 this opportunity to update you on the
23 implementation of NAGPRA in Fiscal Year 2015 by the
24 USDA Forest Service. I'd like to start with a
25 brief - some brief observations on 43 CFR 10.7,

1 which recently published in the Federal Register,
2 which will, I believe, become effective on December
3 7 of 2015. This is regarding the disposition of
4 unclaimed remains and other cultural items.

5 On behalf of the Forest Service, I was
6 involved in the early rounds of discussions of the
7 proposed rule among Federal agencies. As a result
8 of these discussions, I realized early on that the
9 Forest Service would be minimally impacted by the
10 proposed rule. The reason for that is that the
11 Forest Service had already established efficient
12 approaches to the implementation of Section 3 of
13 the statute, and we were already and for a number
14 of years had been expeditiously repatriating human
15 remains and other NAGPRA items, thereby fulfilling
16 the purpose of the rule. This pattern has
17 continued to the present.

18 Next, I would refer you to the two databases
19 that are included in your binders. First of all,
20 the spreadsheets entitled "Forest Service NAGPRA
21 Compliance Status Fiscal Year 2015." There are two
22 sheets there. One entitled "NAGPRA Summary," the
23 other "NAGPRA Inventory." The second document is
24 the Forest Service's response to the National
25 NAGPRA Program's annual data call to Federal

1 agencies regarding repatriation. The caption is -
2 it's the Forest Service response to Federal agency
3 repatriation data call for Fiscal 2015.

4 The first spreadsheets, the ones directly from
5 the Forest Service and documenting our annual
6 implementation, provide cumulative data as of the
7 end of Fiscal 2015. As of that date, September 30
8 of this year, the Forest Service has repatriated a
9 total of 2,368 Native American - sets of Native
10 American human remains. We have also repatriated
11 21,781 associated funerary objects, 7,269
12 unassociated funerary objects, 362 sacred objects,
13 and 624 objects of cultural patrimony. The
14 majority of the human remains have come from the
15 Southwestern Region, and the majority of those
16 remains have come from the Coconino National
17 Forest. In Fiscal 2015, the Forest Service
18 repatriated a total of 113 Native American human
19 remains.

20 Turning now to the agency data call
21 spreadsheets, I would like to bring to your
22 attention a disparity between the cumulative
23 numbers in this data call of 2,312 sets of remains
24 and the Forest Service spreadsheets with a total of
25 2,368 sets of remains. As I believe I've indicated

1 in previous meetings, but because there are several
2 people here who have not been officially on the
3 Review Committee until this meeting, I'd like to
4 point out that the largest portion of this
5 difference of 56 individuals was due to
6 documentation deficiencies at Fresno State
7 University, now I think known as California State
8 University at Fresno. They had some major curation
9 issues whereby the provenience information of
10 virtually all the human remains were lost, at and
11 including the site level. They knew that they had
12 120 sets of human remains. Those 120 sets of human
13 remains came from National Forest System land. I
14 can't remember all of them. Corps of Engineers I
15 know was on that list. I think Bureau of
16 Reclamation, Cal Trans, for those of you from
17 California, a notorious institution.

18 The committee was brought into this in 1999
19 and asked for a decision permitting - requesting
20 the Secretary to permit California State University
21 at Fresno the permission to declare all 120 sets of
22 remains to be CUI, because you could not take any
23 set of individuals and say these remains came from
24 this site. We were involved because we knew that
25 42 of those 120 came from the lands administered by

1 the Sierra National Forest. As the record
2 indicates in the records of the Review Committee
3 and the Secretary of Interior, the committee
4 recommended that these remains be considered
5 culturally unidentifiable and that the Cal State
6 Fresno would proceed to repatriation of those
7 remains. They published a notice, I believe, in
8 2001, and they were subsequently repatriated under
9 a letter from the Secretary of the Interior.

10 Finally, I would like to briefly look at the
11 matter of reburials, which has become of interest
12 at this meeting, reburials on National Forest
13 System lands. Until Congress passed the 2008 Farm
14 Bill with its reburial provisions, the Forest
15 Service did reburials and we did reburials from the
16 earliest days of NAGPRA on National Forest System
17 lands under our discretionary authorities.
18 However, in the early summer of 2008, there was set
19 forth statutory provisions regarding the Forest
20 Service's reburial of human remains, Native
21 American human remains and other cultural items on
22 National Forest System lands. So what we're
23 talking about here is prevailing law governing us
24 and specifying what we can do.

25 And I'm just briefly going to take a look here

1 and put into the record the relevant provisions of
2 that law, and this is 122 statutes at large 2048
3 and following. First of all, looking at section
4 8101 entitled "Purposes," and number (1) of 8101 is
5 "The purposes of this subtitle are- to authorize
6 the reburial of human remains and cultural items on
7 National Forest System land, including human
8 remains and cultural items repatriated under the
9 Native American Graves Protection and Repatriation
10 Act, 25 U.S.C. 3001 et seq." So that's the first
11 one.

12 Secondly, is section 8103, "Reburial of Human
13 Remains and cultural items. (a) Reburial sites- In
14 consultation with an affected Indian tribe or
15 lineal descendant, the Secretary" namely, the
16 Secretary of Agriculture, "may authorize the use of
17 National Forest System land by the Indian tribe or
18 lineal descendent for the reburial of human remains
19 or cultural items in the possession of the Indian
20 tribe or lineal descendent that have been
21 disinterred from National Forest System land or an
22 adjacent site." And finally, turning to section
23 8102 of this law, "Definitions," it says, "In this
24 subtitle: (1) adjacent site- The term 'adjacent
25 site,'" in quotes, "means a site that borders a

1 boundary line of National Forest System lands.”

2 The sum total of this is that this is clear
3 and specific language providing authority to the
4 Forest Service to permit reburials of Native
5 American human remains and cultural items on
6 National Forest System lands. This is a statutory
7 delineation of the extent of that authority. In
8 light of this, I think it is crucial to point out
9 that the reburial costs, another portion of it that
10 provides for the Forest Service to cover the cost
11 of that reburial, it's crucial to realize that the
12 reburial costs will be paid with funds appropriated
13 by Congress. And that brings it all into a
14 different light, because we're talking about laws
15 and regulation regarding the responsible and
16 appropriate and legal expenditure of Federal funds
17 doing reburials. And there has been the temptation
18 to try to exceed, in my mind, the legal authorities
19 regarding reburials of unprovenienced remains from
20 a state. In my opinion, we are prohibited
21 specifically because of the definition of adjacent
22 site. And I will say it again, the definition -
23 the term "adjacent site" means a site that borders
24 a boundary line of National Forest System land.
25 Having said that, I would now conclude and ask for

1 any questions.

2 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

3 ARMAND MINTHORN: Thank you.

4 Committee, any questions or comments?

5 Thank you.

6 FRANK WOZNIAK: Thank you, Mr. Chairman, and
7 thank you, members of the committee.

8 MELANIE O'BRIEN: The next item on the agenda
9 is a presentation from the Columbia Plateau Inter-
10 Tribal Repatriation Group.

11 **PRESENTATION: COLUMBIA PLATEAU INTER-TRIBAL**

12 **REPATRIATION GROUP**

13 **PRESENTATION**

14 JACQUELINE COOK: Good afternoon, and thank you
15 all for allowing us to have this presentation.
16 Thank you. We would like to thank the Native
17 American Graves Protection and Repatriation Act
18 Review Committee for this opportunity to provide
19 testimony on our experiences with NAGPRA
20 compliance. The Columbia Plateau Inter-Tribal
21 Repatriation Group consists of the tribes and bands
22 from the Columbia Plateau in the Pacific Northwest
23 states of Washington, Idaho and Oregon. The
24 Confederated Tribes of the Colville Reservation,
25 the Confederated Tribes of the Umatilla Indian

1 Reservation, the Confederated Tribes and Bands of
2 the Yakima Nation, the Nez Perce Tribe, and the
3 Wanapum Band of Priest Rapids, which I might
4 mention is a nonfederally recognized Indian group,
5 have come together to undertake the repatriation of
6 human remains and funerary objects from the
7 Columbia Plateau. The tribes and bands of the
8 Columbia Plateau have an inherent responsibility
9 under our religious beliefs and practices to care
10 for our ancestors buried within their homelands.
11 The practice of ensuring their return to the earth
12 and continuing their journey is an integral part of
13 Plateau culture and tradition. We continue to work
14 together to achieve repatriation goals in the most
15 expedient manner. The benefits we gain include
16 building trust, forming strong working
17 relationships, and pulling together resources
18 during repatriation, reburial and ceremonial
19 aspects of the repatriation. Between 2005 and the
20 present, we have repatriated a minimum number of
21 1,515 individuals, 54,664 funerary objects, 1
22 sacred object from 54 institutions under NAGPRA.

23 We last presented to you in March of 2015 in
24 Amherst, Massachusetts. We believe that it is
25 important to present to the NAGPRA Review

1 Committee. Today, we'll be providing an update on
2 the Ancient One, also known as Kennewick Man. The
3 claimant tribes - the Colville, Nez Perce,
4 Umatilla, Wanapum, and Yakama - have always stood
5 by their knowledge and traditions which told us the
6 Ancient One was our ancestor. We have requested
7 repatriation for almost 20 years, only to be
8 blocked at every turn. The resulting court cases,
9 which final judgment made at the United States
10 Court of Appeals to the Ninth Circuit, placed the
11 claimant tribes in the status of interested parties
12 in the minds of the Federal agency and the public.
13 In accordance with our spiritual and cultural
14 practices, we have conducted annual ceremonies with
15 and for the Ancient One when permission was
16 granted. The purpose of these ceremonies is to let
17 him know that he is not forgotten. There have been
18 new studies conducted by the plaintiff scientists
19 since the 2004 court ruling, culminating in a
20 massive tome, over 600 pages in length. The
21 findings in "Kennewick Man: The Scientific
22 Investigation of an Ancient American Skeleton" came
23 to no definite conclusion whether or not the
24 Ancient One was Native American. The plaintiff
25 scientists' interpretation suggested that this

1 Paleoamerican was a lone wolf, a wanderer from the
2 North, who ended up purposely buried on the
3 Columbia Plateau.

4 We are happy to report, however, that the most
5 recent study based on DNA results presented in June
6 of 2015 have confirmed what we have always known;
7 the Ancient One is Native American and more closely
8 related to the claimant tribes than any other
9 group. The article "The Ancestry and Affiliations
10 of Kennewick Man," published in Nature,
11 contradicted the stale court finding. Numerous
12 scientists associated with the Centre for
13 GeoGenetics found not only the Ancient One is
14 definitely Native American, but comparisons with
15 members of the Colville Tribe show that he is more
16 closely related to the claimant Columbia Plateau
17 tribes than any other current or past populations
18 studied to date, globally.

19 The goal of the claimant tribes is to jointly
20 repatriate and rebury the Ancient One have never
21 changed throughout our struggle. We are currently
22 moving forward on multiple fronts to ensure that he
23 is returned so that he can continue with his
24 journey to the Creator.

25 The majority of our time during the last few

1 months has been devoted to fielding press and media
2 requests, evaluating how the court case may affect
3 moving forward, and working with Senator Patty
4 Murray and her staff, as well as lobbyists and
5 legal staffs on the Bring the Ancient One Home Act
6 of 2015. The tribes have also been forwarding
7 their concerns to the Department of the Interior
8 regarding the publishing of NAGPRA's regulations on
9 unclaimed remains inadvertently discovered on
10 Federal land. The claimant tribes are also in
11 consultation with the U.S. Army Corps of Engineers
12 and are working with their staffs.

13 In conclusion, the Columbia Plateau Inter-
14 Tribal Repatriation Group once again thanks the
15 NAGPRA Review Committee for this opportunity to
16 provide testimony regarding the implementation of
17 the Native American Graves Protection and
18 Repatriation Act. Thank you.

19 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

20 ARMAND MINTHORN: Any comments or questions
21 from the committee? Dennis.

22 DENNIS O'ROURKE: I just wanted to say thank
23 you, and I have to say I'm not surprised at the
24 genetic results.

25 JACQUELINE COOK: We weren't either.

1 ARMAND MINTHORN: Okay. Anything else from -

2 STEVE TITLA: Chairman?

3 ARMAND MINTHORN: Steve.

4 STEVE TITLA: I think that the Columbia Plateau
5 Inter-Tribal Repatriation Group has presented a
6 strong case that the Ancient One is part of their
7 heritage, and I support the return of the Ancient
8 One to the respective tribes. I don't know whether
9 our group can order that. Maybe our esteemed
10 counselor - Steve is shaking his head. Mattix?

11 CARLA MATTIX: And just a reminder, this
12 started out as a Section 3 inadvertent discovery
13 case under NAGPRA, which is generally outside the
14 purview of the committee's recommendations, but it
15 also has a very long litigation history and it is
16 currently under the jurisdiction of the Corps of
17 Engineers for them to consider this new information
18 and perhaps make a new decision. I don't have any
19 information as to what they're doing at this time.

20 ARMAND MINTHORN: Just to add to what Carla is
21 saying, you know we have two avenues going here
22 with the Kennewick Man, we know as (Native American
23 language), Ancient One. And the Corps of
24 Engineers, of course they're going through their
25 process in working with NAGPRA, and then we have

1 another avenue with Senator Murray. So we have
2 Congress and a bill that's going through Congress,
3 and we have an avenue with the Corps. So we're
4 pushing on both of these avenues. One of them
5 eventually is going to go faster than the other.
6 So we will get down to the end where we will have a
7 repatriation and a reburial. But just to note with
8 the report, we do have two avenues and two efforts
9 going to get the Kennewick Man back for reburial.

10 JACQUELINE COOK: And for the record, just
11 because it's on the agenda, Kate Valdez, who is the
12 THPO for the Yakama Nation, she's not with the
13 Colville Tribes, couldn't be here today, so just
14 extend her thanks as well.

15 ARMAND MINTHORN: Okay. Thank you.

16 Okay. Moving on, Indiana University.

17 MELANIE O'BRIEN: Yes, sir. Indiana University
18 is bringing you two separate presentations.

19 **PRESENTATION: INDIANA UNIVERSITY**

20 **PRESENTATION**

21 JAYNE-LEIGH THOMAS: Good afternoon, Chairman
22 Minthorn, members of the Review Committee and
23 distinguished guests. My name is Dr. Jayne-Leigh
24 Thomas. I'm the NAGPRA Director for Indiana
25 University. At last year's National NAGPRA meeting

1 in Washington, DC, I presented background
2 information on IU's NAGPRA history and the updated
3 progress. The purpose of this presentation is to
4 provide members of the Review Committee, Program
5 staff at National NAGPRA, tribal constituents and
6 the general public with updated information
7 regarding the committed endeavors of Indian
8 University's NAGPRA project. Since November of
9 last year, we have continued our consultation
10 efforts with face-to-face meetings with tribes in
11 Washington State, Kansas, Oklahoma, Alaska,
12 Arizona, Arkansas, California and New Mexico.
13 Since the policy's inception in 2013, I have met
14 face-to-face with representatives from over 50
15 tribes and many more lines of communication has
16 been established over the phone and through email.

17 In 2015, IU repatriated 13 collections
18 comprising 44 individuals and 184 associated
19 funerary objects. Four more repatriations are
20 scheduled for spring of 2016. Three grants
21 positively affected IU during the course of 2015.
22 In a collaborative effort, Indiana and the Native
23 Village of Barrow Inupiat Traditional Government
24 obtained a repatriation grant which assisted both
25 parties in the repatriation of a collection to

1 Barrow, Alaska. This repatriation project has
2 received nationwide attention recently, and I will
3 be presenting this work on behalf of both IU and
4 the Native Village of Barrow shortly after this
5 presentation.

6 IU was also awarded a consultation grant for
7 this upcoming year, which will be used to bring
8 tribal members from ten different tribes to
9 Bloomington for a three-day event, holding
10 discussions and consultations on the future of CUI
11 collections from the state of Indiana. Tours of
12 facilities will be provided and we hope to
13 additionally open dialogue with regards to curation
14 practices, participatory research and reburial
15 within the state.

16 Additionally, in 2014, researchers from
17 Indiana University were awarded a one-year National
18 Science Foundation grant to research NAGPRA
19 education throughout the United States and plan
20 interventions to improve repatriation literacy. In
21 August of this year, tribal cultural specialists,
22 repatriation coordinators, anthropologists, museum
23 studies educators and graduate students from around
24 the country gathered in Bloomington, Indiana, for a
25 two-day collegium workshop to participate in

1 discussions about particular gaps in knowledge and
2 problematic understandings of NAGPRA that exist
3 within the United States educational system and
4 many sectors of the public. In 2015, IU
5 researchers received confirmation that a second
6 implementation phase will be funded for an
7 additional three years. Additional funding
8 supports working with tribal college educators, two
9 additional collegium workshops where we will fly in
10 members of tribes from all over the country, and
11 collaborating on educational materials to improve
12 knowledge of cultural awareness and NAGPRA
13 practice.

14 The Indiana University NAGPRA project has the
15 full support of the provost and the administration.
16 IU also encourages tribes to come to Bloomington to
17 utilize on campus resources such as tribal history
18 documents and the Erminie Wheeler-Voegelin Archives
19 and to tour facilities where collections that fall
20 under NAGPRA are currently cared for. We are fully
21 committed to working with tribes to create new
22 partnerships and develop fruitful relationships so
23 that ancestral remains and funerary objects will be
24 returned to the appropriate tribal communities. I
25 thank you for the opportunity to speak with you

1 this afternoon, and I am happy to address any
2 questions that you may have.

3 ARMAND MINTHORN: Any comments or questions
4 from the committee? Thank you.

5 **PRESENTATION: INDIANA UNIVERISTY/NATIVE VILLAGE OF**
6 **BARROW**

7 **PRESENTATION**

8 JAYNE-LEIGH THOMAS: All right, for this next
9 presentation, it is my honor to present not only on
10 behalf of Indiana University but on behalf of the
11 Native Village of Barrow Inupiat Traditional
12 Government, for which I have their permission,
13 encouragement and support. Many of you may be
14 aware of this project as our partnership recently
15 was highlighted in media outlets such as Indian
16 Country Today and Newsweek. Both the Native
17 Village of Barrow and Indiana University are and
18 flattered and honored that our partnership has
19 created so much interest from around the country.

20 To begin with, Barrow, Alaska is located 350
21 miles north of the Arctic Circle at the top of
22 Alaska. It is a community of over 4,000 people
23 which rely predominantly on whaling for
24 subsistence. Is it me? Go ahead and change it
25 then. In 1916, Indiana native Mollie Greist and

1 her husband, Dr. Henry Greist, traveled to Barrow
2 to work as missionaries, where they stayed for 17
3 years, having become a welcome member of the
4 community. Upon returning to Indiana, Mollie
5 brought with her a large collection of parkas,
6 fishhooks, and other utilitarian objects, which in
7 the 1940s were gifted to the Indiana Historical
8 Society and later then to Indian University.

9 Today, people speak fondly of the Greist
10 family for their work in Barrow, David's recent
11 trip - David was their son - and as you can see
12 here, this tombstone was donated after Mollie's
13 death by the Native Village of Barrow.

14 In the spring of 2014, I reached out to
15 Flossie Mongoyak, Realty Director and NAGPRA
16 Coordinator for both the Native Village of Barrow
17 Inupiat Traditional Government and the Inupiat
18 Community of the Arctic Slope regarding the
19 collection of human remains and associated funerary
20 objects which Mollie Greist had brought back with
21 her to Indiana. For several months, Flossie and I
22 communicated via email and telephone and in the
23 fall of 2014, the Notice of Inventory Completion
24 for this collection was submitted.

25 At this time, we decided to work together to

1 apply for a repatriation grant. We agreed that if
2 I wrote the grant the tribe would put their name on
3 it, and that if successful, we would split the
4 grant award so that both parties' financial needs
5 could be met. We were extremely pleased this year
6 that this grant was awarded.

7 In spring of 2015, arrangements were made for
8 myself and my colleague, Dr. April Sievert, of the
9 Glenn Black Lab of Archaeology to escort the
10 ancestors home to Barrow. One key component of our
11 visit was the incoming whale migration. The Native
12 Village of Barrow was the only group permitted to
13 harvest whales twice a year, both in the spring and
14 the fall as the whales migrate back and forth
15 around the top of Alaska. The tribe had decided to
16 hold the reburial after the whaling festival, which
17 is held in June, so that during our visit we could
18 share the celebration and attend the festivities as
19 honored guests. This festival is known as the
20 *Nalukataq*, a three-day celebration of feasting,
21 dancing and the famous seal skin blanket toss.

22 In June of 2015, the ancestors returned home
23 to Barrow. April Sievert and I spent ten days with
24 members of the tribe, celebrating, feasting and
25 dancing under the midnight sun. We were honored to

1 be asked to help select a burial plot in the
2 community cemetery for the ancestors and arranged
3 for gifts to be placed in the grave, one for each
4 ancestor. I consider it a true honor to have been
5 part of such a special repatriation, and I'm truly
6 grateful for the support, guidance and friendships
7 that I now share with members of the Native Village
8 of Barrow.

9 It is our current plan to continue our
10 collaboration by bringing Flossie Mongoyak to
11 Indiana a year from now. The Mathers Museum of
12 World Cultures curates a large collection of parkas
13 and other objects from Barrow, and we do have plans
14 for a collaborative photography exhibit and other
15 projects with the tribe.

16 In conclusion, I would like to share a brief
17 slide show of pictures taken during our trip to
18 Barrow, and this is also with the permission and
19 support of the tribe. These will be of the
20 community, the *Nalukataq* and the reburial. I
21 appreciate the opportunity to share with you our
22 friendship that has developed between the Native
23 Village of Barrow and Indiana University. (Native
24 American language), and thank you.

25 (Slide show presentation.)

1 Thank you.

2 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

3 ARMAND MINTHORN: Thank you. Any questions or
4 comments from the committee? Steve.

5 STEVE TITLA: Chairman. Yes, thank you for a
6 good report with your personal consultation with
7 Alaska, Barrow, and also earlier you mentioned that
8 you had personal consultation with over 50 tribes
9 in that area. That's to be commendable. I think
10 that in the past two days, you're the university
11 that's met the most with the - personal
12 consultation with the most tribes. So maybe the
13 committee can think of an award for the university
14 that personally consults the most with tribes,
15 because that's what we like, I think. That's what
16 I like personally of the committee. I don't know
17 about the rest, but I think that that's our theme.
18 So it sounds like you're doing a good job there and
19 a good presentation, and like the Chairman said if
20 you can keep us updated as you go forward. Thank
21 you.

22 ARMAND MINTHORN: Just some comments. This is
23 - this is truly good to actually hear and see that
24 it's taken place with the Natives in Alaska. A
25 question, and it's really not related to NAGPRA, is

1 it - I guess can you, if possible, give an example
2 of how actually climate change is affecting the
3 peoples there?

4 JAYNE-LEIGH THOMAS: I can actually. First of
5 all, one of the things that that topic of
6 discussion came up because there's a lot of plants
7 actually up there that the tribe doesn't have a
8 name for. There are flowers blooming in the summer
9 they've never seen before, and so we were asking
10 what are these plants, they're really nice. We
11 have absolutely no idea. They're invasive.
12 They're coming and we don't actually have a name
13 for them, because it's now becoming so warm that
14 they're not used to those being there.

15 The caribou herds are coming down from the
16 high. They're coming down to the water to cool
17 off, also to rid their coats of bugs and things.
18 But they're seeing a difference in the migration
19 patterns because it is so warm. The ice was there
20 when we arrived. It moved out, and they said the
21 ice is definitely decreasing. The seals and the
22 walrus followed the ice. The polar bears follow
23 the seals and the walrus, and they're having to go
24 further out to do their subsistence hunting for
25 whales and seals and things like that. So very - I

1 don't want to speak too much on that, because I
2 definitely am not an expert, but just in the short
3 period of time we were there, it did - it was
4 something that did come up.

5 ARMAND MINTHORN: Thank you. Anything else
6 from the committee?

7 Thank you.

8 Melanie, we'll take a break.

9 MELANIE O'BRIEN: Certainly, we'll come back at
10 3:05 to start public comment.

11 ARMAND MINTHORN: 3:05.

12 **BREAK**

13 MELANIE O'BRIEN: If you will please take your
14 seats. We have today several public comments.

15 ARMAND MINTHORN: If you could take your seats.

16 MELANIE O'BRIEN: If you could please take your
17 seats, the first public comment we have today is
18 from Linda and Bertney Langley of the Coushatta of
19 Louisiana. They also have with them Erin Gredell
20 of Yale University.

21 **PUBLIC COMMENT**

22 **ERIN GREDELL/LINDA AND BERTNEY LANGLEY**

23 ERIN GREDELL: Hi, thank you very much,
24 Mr. Chairman and members of the Review Committee,
25 for allowing us to speak today. I'm here just to

1 do a very brief introduction of how us three came
2 to meet. I initiated a consultation with regard to
3 a burial from Pine Island, Alabama, earlier this
4 year, consulted with numerous tribes. That's
5 actually not why I'm here to speak, but that's what
6 brought us together and brought them here today.

7 That burial, just to give you an update, the
8 notice is working its way through the system. I
9 actually just yesterday - Melanie, you'll be happy
10 to know - I was emailed the approved draft, which
11 now I will take back to Yale and have the final
12 signature and then we will be submitting that for
13 publication in the Federal Register. But Bertney
14 and Linda here would like to take this opportunity
15 to just address the committee and the public here.
16 So I'm going to turn it over to them.

17 BERTNEY LANGLEY: Thank you, Mr. Chairman and
18 committee members, for allowing us to speak on
19 behalf of the Coushatta Tribe of Louisiana. My
20 name is Bertney Langley. I'm a member of the
21 Coushatta Tribe of Louisiana, and this is also my
22 wife, who's an anthropologist, who's worked with us
23 for a long while, trying to get some of our
24 documentations back into the tribe so we'll have it
25 for our children and grandchildren.

1 What I'd like to do today is I'd like to speak
2 in Koasati, in honor of our ancestors who we are
3 working for the benefit of some of these reburials
4 and whatever. We've been always - we've always
5 been taught that our language is what gives us
6 strength in the tribe. So on behalf of the Koasati
7 ancestors, that's what I would like to do today is
8 give you a brief history of how we came to be where
9 we're at right now.

10 (Native American language.)

11 LINDA LANGLEY: I'll do my best. First, what
12 he would like for you to understand is on behalf of
13 the Koasati people how much we appreciate this
14 opportunity. What he said at the beginning and at
15 the end is that they are still here, and when - I
16 had bullet points of history, but I would like to
17 start with the ending that he said, which is that
18 the people had always told them - the old people
19 had said that in the end times all those who were
20 lost will return and will come home, and the people
21 feel that this may be the beginning of that.

22 When Erin first called us, we had no idea at
23 all. There's absolutely no idea among the Koasati
24 people in Louisiana that there were any Koasati at
25 all considered culturally unidentified. I know

1 that may be difficult to imagine, but after all
2 these years of NAGPRA, we did not know that there
3 were still his ancestors in this predicament, and
4 this has been a great sense of horror back home,
5 and immediately the Chairman and the council
6 immediately said to us that something must be done.

7 There - to back up a little bit to the history
8 as he was saying it to you that the Koasati people
9 were at one time one. They were a large group in
10 the area that is the Muskogean area, Tennessee into
11 Alabama. They were what the Spanish called the
12 Coosa or Coohosa (phonetic) chiefdom. Later,
13 often, it's called the Creek areas. They were a
14 member in the 1700s with the Creek Confederacy but
15 prior to that a little bit further north. His
16 ancestors left the area of the Confederacy, as he
17 described it to you, the chief had a prophesy or
18 had the dream, a vision, that the wars were coming,
19 and this was actually written in an affidavit that
20 he told these dreams to some of the White traders
21 and explained why the people, the Koasati people
22 were leaving the area, and about half of them did
23 leave prior to the Creek wars.

24 And what they began was a series of journeys
25 that left their ancestral homelands, and they ran

1 into various traders along the way or people that
2 wrote this down, explorers. But in the area of
3 Tennessee they left, in the area of Alabama they
4 left, prior to wars, prior to forced removals.

5 There are three groups of Koasati today, the
6 Alabama-Quassarte he mentioned in Oklahoma, the
7 Alabama Coushatta, which many people are familiar
8 with in Texas, and his group, the Coushatta Tribe
9 of Louisiana. Most people are less familiar with
10 them because they are the group that did leave
11 ahead of all of this. And why this is important
12 for NAGPRA is that it leaves them with the least
13 amount of paper documentation. They are the one
14 group that fortunately for them kept the most
15 amount of language, the most amount of traditional
16 culture as anthropologists reckon it, but the least
17 amount of paper documentation, no treaties other
18 than one where they signed with the Creek
19 delegation. No forced removal, so they were not
20 listed or numbered. Then they continued this
21 pattern for the 200 years until their present land
22 in Alton, Louisiana.

23 So for NAGPRA reasons on your current website,
24 they have no land listed at all, despite the fact
25 that they know where they come from and always have

1 known, and say we know who were are; this was not
2 an issue for us. But as Erin, when she called, we
3 became glaringly aware it was only the tip of the
4 iceberg. What was in the Yale collection, we have
5 since found out that this is a small part of the
6 collections that are in many other - the
7 collections of other agencies and also museums. It
8 was a large cemetery, as best as we can understand
9 it. There are numerous - we are learning all the
10 lingo, associated funerary objects, minimum number
11 of individuals, the NAGPRA rules and regulations.
12 We are getting a crash course in all of it.

13 So we have learned a few things. One is that
14 this can be a tremendously powerful process that a
15 university can be on our side, which is a wonderful
16 thing. She has guided us thus far and helped us
17 understand that other tribes can be also wonderful
18 partners, helping us understand what they've
19 already gone through. We have reached out to
20 numerous scholars and agencies. Yale paid for the
21 initial analysis out of their budgeting, and has
22 had - it has taught us a lot already what they have
23 done.

24 We have reached out to each other group with
25 Koasati members on their rolls, and plans are

1 already in place, although we have barely, I think,
2 six months since we have learned and the numbers
3 are staggering to us, from thinking there were none
4 to thinking there may be hundreds. And we don't
5 know what we're going to do, but we have learned
6 that the teamwork is possible. We have learned
7 that this already has spiritual impact back home.
8 People have - one person in particular made the
9 journey to Pine Island in Alabama and stood on the
10 banks. It's currently largely under water, but he
11 took photographs of it and he came back, and my
12 husband said that where he had previously mostly
13 spoken to him in English he began speaking to him
14 in their language, and he said I saw the world
15 through the eyes of our ancestors because I knew I
16 was standing where they stood and we have to do
17 this.

18 It's an amazing experience to us. We cannot
19 fathom that these remains, these items that have
20 been in a museum on the East Coast for over a
21 hundred years have started this journey of
22 discovery and rediscovery for the Koasati people.
23 They have the saying that the struggle will make
24 them stronger, and that is something that he also
25 said that he feels strongly that the people will

1 work together and will come together to make this
2 happen in a way that honors their ancestors and
3 that they can finally be at rest in the way that is
4 appropriate for the Koasati people.

5 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

6 ARMAND MINTHORN: Thank you. Any questions or
7 comments from the committee?

8 Just some comments. This is a unique
9 situation here, and more than likely there are
10 other tribes out there in this same situation that
11 we don't know about yet. In this modern-day
12 society, and just like the words that came out,
13 they'll find their way back, and that is so true,
14 so true. It's of big interest how the Koasati is
15 going to work with this, and again, if the
16 committee can help, we'll help. It would be good
17 if we can keep updated from you folks on how this
18 goes. Stay in touch with us and stay in touch with
19 Melanie, as well. There are other tribes in the
20 area, Florida and other places, federally
21 recognized tribes, don't hesitate to ask them for
22 help as well, because this committee deals with
23 NAGPRA, many tribes in the nation deal with NAGPRA
24 and we have some experiences. And most of all, the
25 office here, the National NAGPRA Program, you're

1 the heart of the operation and if they can help as
2 well, don't hesitate to ask them.

3 But it is - as positive as a person can be and
4 as strong as a people can be, it's because of their
5 ancestors. And the Koasati are no different.
6 However, it's unique what the Koasati are going to
7 go through now, and it will strengthen the Koasati
8 people and there will be lessons learned, but it's
9 only going to make the Koasati stronger as a
10 people. So thank you for your comments and your
11 report. And it - again, it's going to be an
12 interest, a big interest, to the committee how you
13 folks work this and how you go through this
14 experience with NAGPRA. Thank you.

15 MELANIE O'BRIEN: Mr. Chair, the next person
16 who would like to make a public comment is Robin
17 Dushane for the Eastern Shawnee Tribe.

18 **ROBIN DUSHANE**

19 ROBIN DUSHANE: Good afternoon, Chairman
20 Minthorn and committee members. My name is Robin
21 Dushane, and I serve the Eastern Shawnee Tribe of
22 Oklahoma as the Tribal Historic Preservation
23 Officer. During the last decade, our tribe has
24 received two separate documentation and
25 consultation grants through the National NAGPRA

1 Program, which have greatly increased our capacity
2 to consult on NAGPRA issues. Most recently, our
3 second repatriation has resulted in the reburial of
4 25 ancestors in West Virginia previously under the
5 control of the Huntington District Army Corps of
6 Engineers. Through further consultation, we have
7 established a goal of pursuing repatriation of this
8 district's entire Fort Ancient collection dating
9 from 1100 A.D. through the contact period, as the
10 Huntington District has affiliated their Fort
11 Ancient collections, totaling 80 ancestors, to the
12 three federally recognized Shawnee tribes.

13 In closing and as an aside, I'm compelled to
14 share with you that the TVA is one Federal agency
15 that we also consult with that you heard from
16 earlier this morning. Their consultation methods
17 are very strong, and I applaud their efforts. They
18 should serve as a model for other Federal agencies.
19 Thank you.

20 ARMAND MINTHORN: Thank you. Any questions or
21 comments from the committee?

22 Thank you.

23 MELANIE O'BRIEN: The next public comment we
24 have is from Jaime Lavallee.

25 **JAIME LAVALLEE**

1 JAIME LAVALLEE: Good afternoon. Good
2 afternoon. I've never been on this side of the
3 table before. As Melanie said, my name is Jaime
4 Lavallee. I'm a Muskeg Lake Cree Nation person
5 from what is now called Saskatchewan up in Canada.
6 It's in Treaty 6 territory, but now I work in
7 Treaty 4 territory for the File Hills Qu'Appelle
8 Tribal Council. I'm the Director of Indigenous
9 Governance, Law and Policy. However, I'm not here
10 in that capacity, right? I'll put on two different
11 hats. One, I'm here as an SJD candidate with the
12 University of Arizona doing a dissertation on
13 NAGPRA. And the other one is also as a member of
14 the working group on international repatriation.

15 So I'll get the more official one out of the
16 way with the international repatriation. I know
17 that we were speaking about it earlier in the
18 meeting. First of all, if anybody hasn't received a
19 pamphlet yet or has not picked one up, it's
20 available out there. There's also some bags over
21 on the side that has the agenda from the previous
22 conference that was held this week, and also has a
23 two-sheeter on basically just like what is
24 international repatriation, things like that. So
25 those are available through AAIA.

1 So we had our conference over at the Artesian
2 Casino, which is also on Chickasaw. It was hosted
3 by the International Repatriation project. The
4 working group is a volunteer based group of people
5 that are interested in international repatriation,
6 either having done so themselves or they're just
7 interested in it. They are - they include Eddy
8 Ayau, the San Carlos Apache Tribe, the Aquinnah
9 Wampanoag, the Sault Ste. Marie Tribe on this side
10 of the 49th or whatever parallel that would be
11 because I think it's gets a little - I don't know.
12 I'm not very good at - I'm not that good at
13 geography that I know all the latitudes but it's on
14 this side, so the Sault Ste. Marie Tribe of the
15 U.S., which if you know the Sault Ste. Marie Tribe
16 has also in Canada, the Hopi Tribe and some
17 ceremonial leaders from them, Chief Arvol Looking
18 Horse, the Wabanaki Repatriation Committee rep, and
19 the United Tribes of Michigan rep, and then there
20 are other people that are also involved. I think
21 there was somebody from Australia that was also
22 involved in some of the teleconference events that
23 we have. This was one of the first times we were
24 actually able to meet in person. That was what
25 we're calling now the inaugural international

1 conference. So when there's a next one, we will
2 make sure that the invitation goes out to all of
3 the Review Committee people and hopefully it will
4 be able to be shared as well.

5 As part of it, we had a session on the next
6 steps of what should or can be done to facilitate
7 knowledge of international repatriation, the
8 process and the actual repatriation. Some of the
9 recommendations were coordinating another set of
10 amnesty days, abroad but also within the U.S. Some
11 people may have known there was some that were
12 highly successful. There was one that was highly
13 successful in the Southwest. We also discussed the
14 establishment of intertribal enforcement units on
15 cultural resources to help be proactive against
16 looting. So that would be training and cross
17 deputization with the Federal agency law
18 enforcements to shut down looting and, as an aside,
19 almost like the drug trade as well. If anybody has
20 seen some of those things. I got a couple nods,
21 but if not then it seems like maybe they'll supply
22 some more information. I don't have the studies in
23 front of me. And one of the recommendations would
24 be that a study would be among the National NAGPRA
25 DOJ FBI on states regarding illicit trade in Native

1 ancestors or cultural items and other illicit trade
2 markets. That was one of our - the recommendations
3 that we received in our conference and we're
4 bringing forward.

5 There was also the need to hear more success
6 stories and for those that have not yet reached
7 success, because as we have stated before, even
8 during this public comment period, learning by
9 doing, right, and sharing. We thought that was
10 important because it would help with basically the
11 resources that we have that are already available
12 like databases, templates. There is a guide that
13 is available on the international repatriation
14 working group website, but they would like to keep
15 trying to update it on an annual basis, so that way
16 people have access to newer resources and newer
17 processes and newer points of contact. They're
18 also working on one for basically museums and
19 institutions as well. And then of course, any help
20 is greatly appreciated to help reduce the stress of
21 our resources, because as we know one of the issues
22 that has come up is funding, which is a very
23 important resource. We know that NAGPRA has issues
24 itself, even though they have some grants and it's
25 a federally mandated piece of legislation. But

1 international repatriation doesn't have any laws on
2 it. There are only a few countries that have some
3 sort of mechanism in place, but it's by no means a
4 broad or accepted method of dealing with your
5 collections.

6 So there was also a point about it appears
7 that the Program, the National NAGPRA Program is
8 limiting applicability to 50 states for the grants,
9 when the Supreme Court says applicability of
10 domestic laws includes the territories and insular
11 areas unless specifically exempted by the Congress.
12 And the statement that has - that says it doesn't
13 apply directly contradicts the rest of it,
14 including the acknowledgement of the U.N.
15 Declaration on the Rights of Indigenous People,
16 specifically the repatriation clause.

17 One of the other recommendations was to try
18 and get Congress to do export legislation, because
19 that is one of the reasons that was given for not
20 having the stopping of auction sales is that it's
21 not illegal for it to be taken out of the country
22 so there is no mechanism in which Paris or other
23 countries can deny access or deny those cultural
24 items from going into their country. So we have
25 import rules but no export. So that is one - that

1 is a very big hole in trying to protect what we
2 have now and what we don't want to have removed.

3 And those are our things from the conference.
4 Does anybody have any questions?

5 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

6 ARMAND MINTHORN: Questions, comments from the
7 committee? Yes.

8 HEATHER EDGAR: I have a question for you, but
9 I'll start it with a tiny bit of background. Our
10 museum, the Maxwell Museum of Anthropology has a -
11 I guess you'd call it a practice. It's certainly
12 not a policy, but a practice of accepting materials
13 from individuals who have them, materials that
14 probably should be returned to other countries, and
15 facilitating those returns whenever possible. This
16 happens in most cases so far, not all, but most
17 cases so far have been involving pre-contact
18 materials, cultural materials taken from Mexico
19 after appropriate dates and with no legal
20 processes. And so we have - we're fortunate to
21 have a consulate in our city, and so we have a
22 fairly close working relationship with that
23 consulate for returning materials like this. So
24 these are not materials that are owned by our
25 museum, but materials that we're acting as the

1 conduit for the return of those kinds of things.

2 And I'm wondering if there's ever been any
3 kind of survey or information gathered from other
4 such cultural institutions like ours, like the
5 Maxwell Museum, on whether they are interested in
6 returning material like that that's appropriate,
7 whether they help with general public inquiries
8 like this. It would be very interesting to know
9 what's already being done that's possibly under the
10 radar. So do you know anything about this?

11 JAIME LAVALLEE: Thank you for sharing. No, we
12 - as far as I know, we didn't have anything like
13 that come up in our conference, and it hasn't come
14 up in any of the teleconferences that I've
15 attended. Those are exactly the success stories
16 and sharing of knowledge and resources and
17 practices that we're encouraging people to do. I
18 know on the Vlog we have comment sections, but
19 we're also trying to interview people to find out
20 what they're doing, how they're doing it. Of
21 course, within a culturally appropriate manner, a
22 sensitive manner as well, because sometimes - it's
23 a pre-NAGPRA world out there for everybody out
24 there, right, past the borders of the U.S.,
25 although it's after NAGPRA, right? But it's still

1 - for them there are still a lot of concerns about
2 emptying out their collections and about being the
3 expert in whatever collections that they do have
4 regardless of whether or not the tribe says that is
5 theirs or not.

6 But that would be a great idea. I would
7 suggest if we can, I can give my contact
8 information or you can contact the AAIA and the
9 international repatriation project, and make
10 suggestions. We've got a long wish list, and I
11 think adding to a wish list is great. You never
12 know where or when you might be able to find some
13 of those resources to help share with everybody.

14 ARMAND MINTHORN: Okay. Any other comments or
15 questions? Thank you.

16 JAIME LAVALLEE: Okay. I wanted to wear a
17 different hat now. I don't have another hat, but
18 can I wear a different hat? I had a couple of
19 questions or comments.

20 ARMAND MINTHORN: Okay.

21 **JAIME LAVALLEE**

22 JAIME LAVALLEE: Okay. This is just me being a
23 NAGPRA - interested in and things like that, which
24 was - when there was a discussion about the civil
25 enforcement and the statement was that there are

1 about 108 institutions that have been - had the
2 allegations since basically September - well, since
3 1996, they have investigated 40, they found 19, so
4 that's almost a 50 percent success rate of failure
5 to comply, or the other way around, which is over
6 50 percent have not been found to fail to comply,
7 whichever spin. But that still leaves 68, and I'm
8 trying to find out through some of the report, the
9 previous reports from either the Review Committee
10 or the National NAGPRA Program about what is the
11 priority or process for choosing which ones to
12 investigate? What is the plan of action to resolve
13 these remaining ones? I know we put a plan of
14 action when there was a big backlog for notices.
15 What is the plan of action for the law enforcement
16 or the civil enforcement? What is the reporting by
17 state, and no names or anything like that would
18 have to be required but which ones are the biggest
19 perpetrators or alleged to be? And can those that
20 have reached the finalized stage report on what
21 incentivizes them to complete? How long does it
22 take them to get into compliance and what are the
23 costs for not complying versus actual compliance?
24 Because sometimes it's - if it's cheaper to not do
25 it, sometimes people will continue to do so rather

1 than to do that. I know that our goal is to make
2 everybody into compliance but it all depends on
3 what is an incentive, right, positive or negative.

4 I was going to ask if we could find some sort
5 of check of methodology to find the museum and
6 institutions that should be complying with NAGPRA
7 but aren't or that might not even be on our list of
8 actual museums or institutions that fall underneath
9 NAGPRA, and then I was wondering if we could make
10 available the actual results of the grant examples
11 that we talked about earlier, databases and
12 templates, a small summary of the projects and the
13 results and maybe even follow-ups, because there's
14 always a ripple effect, right? Usually very
15 positive, even what somebody was saying earlier
16 about how they thought NAGPRA consultations will
17 start this and then it will go on to also maybe
18 inform their practices of curation and other
19 agreements.

20 And then we were talking - I was listening to
21 people talk and one of the things that I was
22 wondering is if we could go about doing a mentor
23 kind of, almost apprenticeship kind of network.
24 There was a discussion about how there are tribes
25 out there that are knowledgeable that we should

1 tap. Are they available to let people know who
2 they are, how they would be able to contact them,
3 maybe even what their workload would be, which is
4 only one, one at a time? Or just in general, if
5 there was a way to do a mentorship/apprenticeship,
6 especially since I've been listening to what the
7 National Park Service was saying, which is we're
8 losing a lot of knowledge, 25 years of NAGPRA.
9 Some people now are going on to retirement and we
10 have some people that are just graduating that may
11 have learned but may not know how to actually go
12 about practicing it, which feeds into what Indiana
13 University has said about how there is knowledge
14 and gaps within the educational institution of even
15 people that are taking it. So those are my - those
16 are my comments, my questions. Anybody have any
17 questions for me?

18 **REVIEW COMMITTEE QUESTIONS OR DISCUSSION**

19 ARMAND MINTHORN: Any comments or questions for
20 the committee?

21 Thank you.

22 JAIME LAVALLEE: Thank you.

23 MELANIE O'BRIEN: We have an additional public
24 comment from Jan Bernstein.

25 **JAN BERNSTEIN**

1 JAN BERNSTEIN: Hello, Chairman, members of the
2 committee. Thank you so much for providing the
3 time for public comment. It really is a great
4 honor and privilege for me to be in this NAGPRA
5 world. I've been working on repatriation issues
6 since the early 1980s, and was there when NAGPRA
7 was signed and have been a part of its
8 implementation ever since. I'm an independent
9 museum consultant. I have been in that capacity
10 since 2003, and I have also the honor and privilege
11 of teaching courses for the National Preservation
12 Institute that Melanie spoke of. I teach the
13 NAGPRA essentials class, and I also teach the grant
14 writing class with Megon Noble. And we've been
15 doing a lot of training this past fall, and we'll
16 continue to do that into the winter. And there is
17 also one other teacher that teaches NAGPRA
18 essentials, a former member of your Review
19 Committee, Eric Hemenway from the Little Traverse
20 Bay Band of Odawa Indians. And he'll continue to
21 teach a few courses into the spring.

22 And so we see a great need for training still,
23 because there are always new people coming on
24 board. And that money is only going to be
25 available for a short time to provide those

1 scholarships and travel stipends. It will only
2 last for, what, less than five years I believe,
3 Melanie? Because it was money that was left over
4 on the table after there were fewer high scoring
5 grants than there was money available a couple
6 years ago. And so it looks like maybe through the
7 trainings we have increased the number of
8 successful grant applications tremendously just
9 through one year of training but these trainings
10 will only be available for a few more years. And
11 then if we continue to have these successful grant
12 applications there will be no more money for
13 training. So I urge you to also include in your
14 report the issue of training, and I know Indiana is
15 working on looking at the gaps as well.

16 And currently I have clients all over the
17 country, Buena Vista Rancheria, which brought me in
18 on a NAGPRA grant to do training for not only their
19 tribe but for all of their neighbor tribes in
20 northern or central northern California in the
21 valley and up into the foothills, and I did that
22 this last fall. And following that, they were able
23 to do a successful consultation with UC Davis. And
24 I write grants for the Central Council of the
25 Tlingit and Haida Indian Tribes of Alaska. Without

1 those grants, they would not be able to do
2 collection reviews, and write repatriation claims.

3 And I also work with the Wiyot Tribe. I've
4 done three trainings for them. They on the south
5 side of Humboldt Bay in northern California. I've
6 done trainings for them and their neighbor tribes,
7 THPOs, NAGPRA coordinators, tribal leadership, and
8 the last one was for tribal Elders. And it's just
9 always so interesting to see how many people are
10 new to NAGPRA and need that training and that
11 capacity building.

12 And other institutions that I'm working with,
13 Sam Noble Oklahoma Museum of Natural History. You
14 heard their presentation yesterday about the work
15 that is in front of them, 10 to 12 years of work to
16 facilitate the return of over 3,000 individuals
17 that have not yet been in notices, and they'll be
18 applying for a grant each year to fund that work.
19 And it just goes on and on.

20 And something else that's come up this fall is
21 that I have four new museum clients, all of whom
22 have never submitted a summary or an inventory.
23 And in a couple of cases they didn't know NAGPRA
24 existed. One was a city, and their museum had been
25 closed down for years and they were looking into

1 selling the collection. And they brought in a
2 consultant who realized that there were Native
3 American items in there covered by NAGPRA, and he
4 contacted - put me in contact with the city. And
5 they are - they've now submitted an inventory and a
6 summary and are going to apply for a NAGPRA grant
7 to fund consultation.

8 A second client in that same state, Michigan,
9 has two museums. They had complied with NAGPRA
10 barely but needed additional inventories and
11 summaries to go out. And then I have another new
12 client that has been in the press. I contacted
13 them. This is the first time I've ever contacted a
14 potential client and offered my services, and they
15 took me up on it. And they have been found in
16 noncompliance and are in the penalty phase now.
17 And we are rushing to touch base with tribes so
18 that they can submit an inventory and a summary and
19 start to consult further with tribes, and they'll
20 be doing that through grants as well.

21 So I have a lot of clients that will be
22 submitting grants. And there's one last one in
23 California, and they did - they never submitted an
24 inventory. This is a state organization. And we
25 just did that. Recently we submitted the inventory

1 and are embarking on consultation now to determine
2 if there can be a cultural affiliation
3 determination and repatriation. So that's just
4 this fall that I have had four new clients that
5 never complied with NAGPRA. And I think you are
6 right. There are a lot out there still probably,
7 and Jaime mentioned that as well.

8 So I also want to talk about the National
9 NAGPRA Program and how helpful they have been to
10 the one client in particular that was found in
11 noncompliance, what Melanie talked about, that
12 separation that exists between the civil penalties
13 investigation and her program. We felt very
14 comfortable having conference calls with Melanie
15 and asking her very direct questions because it was
16 separate from the penalty - the penalty assessment
17 and the investigation. So we do appreciate that
18 separation that exists.

19 And also as far as burial sites go, Sheila
20 Goff and Mr. Naranjo and Ms. Naranjo talked about
21 the Colorado Lands group and how they were unable
22 to accommodate the reburial of some of the
23 individuals that were presented to them because
24 they didn't come from Colorado originally. I have
25 been working with the Pueblo of Acoma for a long

1 time, for nearly six years to find a burial site
2 for individuals from New Mexico and Texas. And we
3 did present to the group and the group said it was
4 out of their purview, and so we went to every
5 Federal agency that has land in New Mexico.

6 I reported on this last time I was at the
7 meeting a year ago. And since that meeting, the
8 Ysleta del Sur Pueblo offered land for reburial,
9 and they helped facilitate the burial this past
10 summer of the individuals not only from New Mexico
11 and Texas that were repatriated by the University
12 of Colorado Museum of Natural History in Boulder,
13 but also individuals that were from History
14 Colorado, Denver Museum of Nature and Science, and
15 those individuals came from Colorado, New Mexico,
16 and Arizona. And they all were reburied in El
17 Paso, Texas. So it is a little frustrating that
18 the lands group can't accommodate everybody but we
19 did find a solution. And Ysleta del Sur Pueblo
20 extended an invitation to do this; any time a tribe
21 whose aboriginal territory includes that region of
22 the country needs a burial site, they would be more
23 than happy to help.

24 And I think that's all for now. I've taken up
25 a lot of your time. Do you have any questions for

1 me?

2 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

3 ARMAND MINTHORN: Questions, comments from the
4 committee? Dennis.

5 DENNIS O'ROURKE: A very busy time.

6 JAN BERNSTEIN: Very.

7 DENNIS O'ROURKE: It all sounds incredibly busy
8 and I'm sure the clients appreciate your assistance
9 in coming into compliance.

10 JAN BERNSTEIN: Thank you very much, and thank
11 you for all your work. I really appreciate how
12 much time and energy you put into your work.

13 ARMAND MINTHORN: Thank you.

14 MELANIE O'BRIEN: That's the last public
15 comment that was requested. Are there any others
16 who would like to come forward and make a comment
17 to the committee?

18 ARMAND MINTHORN: Andrea? Anybody else?
19 Please come up. This is your time. This is your
20 time. Okay. Moving on.

21 MELANIE O'BRIEN: The next item on the agenda
22 is again a discussion of the Review Committee's
23 2015 report to Congress.

24 ARMAND MINTHORN: Okay, Dennis.

25 **ACTION ITEM: DISCUSSION OF THE REVIEW COMMITTEE**

1 **2015 REPORT TO CONGRESS**

2 DENNIS O'ROURKE: I'll provide an additional
3 update, since we discussed the report to Congress
4 this morning, the Review Committee worked through
5 lunch and discussed issues. We've taken written
6 comments from two or three members of the Review
7 Committee. We've edited some of the text to
8 shorten it. We're quite concerned that we don't
9 want the report to go too long. We want it to be
10 impactful and read to catch attention, and we have
11 changed the order of the priority of some of the
12 requests for – or some of the barriers that have
13 been identified and therefore the requests to
14 Congress. I think all of the wording changes are
15 agreeable.

16 What is left primarily is the summary of this
17 meeting, which is mostly stream of consciousness
18 notes from me that have been taken during the
19 meeting, otherwise I think the committee is in
20 general agreement with the tone and content of the
21 report so far, as far as I'm aware.

22 ARMAND MINTHORN: So Dennis, too, this report,
23 this year's report is considerably shorter than
24 last year's.

25 DENNIS O'ROURKE: It's shorter. I'm not sure

1 that it will be considerably shorter, but it is
2 shorter. And I'm continuing to try to edit, just
3 making textual changes to try to reduce size more.
4 I prefer it shorter rather than longer, personally.

5 ARMAND MINTHORN: Okay. Any comments or
6 questions from the committee?

7 So can we – can the committee approve a final
8 draft today?

9 DENNIS O'ROURKE: It's not in final form in the
10 sense that the summary of what transpired at this
11 meeting is not written in its final form. I don't
12 know if the committee trusts me and Patrick, who is
13 the other member of the subcommittee, trusts us to
14 accurately reflect what happened at this meeting,
15 then perhaps so. Otherwise, it would need to be
16 done at a – with a telephonic conference, which I
17 know has been scheduled. I don't know if the staff
18 can perhaps address whether it's even possible to
19 approve it at this juncture.

20 ARMAND MINTHORN: Well, I'm sure the committee
21 would trust you.

22 DENNIS O'ROURKE: Oh, I was afraid of that.

23 PATRICK LYONS: May I ask a question, please,
24 Chairman?

25 ARMAND MINTHORN: Yes.

1 PATRICK LYONS: So perhaps, Dennis, we would
2 want to review some critical portions of the report
3 again, maybe talk about the - review the barriers
4 and recommendations again.

5 DENNIS O'ROURKE: I can certainly read those
6 again. Those haven't changed other than the order
7 from this morning. They're the same. And
8 basically the one change to order was to move up in
9 the list of barriers to emphasize its importance,
10 increased support and funding to the National
11 NAGPRA Program, particularly for grants to Indian
12 tribes, Native Hawaiian organizations, museums,
13 etcetera, because of the dramatic increase in
14 applications over the last couple years. That has
15 moved up and has been emphasized more. That was
16 the major change other than the editorial trimming
17 and that sort of thing, and just finessing the
18 wording.

19 ARMAND MINTHORN: Steve.

20 STEVE TITLA: Chairman, it would probably be
21 better if we review the document once they finish
22 it, email it to all of us, then we have a
23 conference call on it. I think that would be much
24 better than approving something that is not
25 complete yet.

1 DENNIS O'ROURKE: If that's the decision of the
2 committee, Patrick and I will work very hard to get
3 the last section done and to everyone very quickly.
4 I think the rest of the document will not change so
5 it wouldn't take much review on the committee's
6 part to approve the final version once it's done.

7 ARMAND MINTHORN: Okay.

8 PATRICK LYONS: Mr. Chair, I would have one
9 thing that I would bring up, and we did - there is
10 a section in there about amendments to -
11 recommendations about amendments to the statute,
12 and this seems like an appropriate time while we're
13 here together to talk about perhaps - well, have a
14 discussion of perhaps lending support to the notion
15 of the amendment of the definition of Native
16 American to include "is or was," and so I would
17 propose that we talk about that today briefly.

18 ARMAND MINTHORN: Sure.

19 MELANIE O'BRIEN: Do you perhaps need some
20 background on that issue of the definition of
21 Native American?

22 PATRICK LYONS: I'm sure you can set that up
23 better than I would.

24 MELANIE O'BRIEN: It's a little late in the
25 day. I'm not sure I can but I'll go ahead and try.

1 PATRICK LYONS: I'm sorry.

2 MELANIE O'BRIEN: This is an issue that the
3 committee has addressed in the past. It has been a
4 part of previous reports to Congress. The issue
5 comes down to what the statute says in terms of a
6 definition of Native American. The statute says
7 that Native American means "of or relating to a
8 tribe, people or culture that is indigenous to the
9 United States." The use of the verb "is" in this
10 case provides some temporal definition, some
11 definition of time, about "indigenous to the United
12 States." So in the past, the Review Committee has
13 recommended that the statute be amended to include
14 "is or was indigenous to the United States."

15 ARMAND MINTHORN: So on that note, Dennis and -
16 this amendment to the statute, I guess the question
17 here for the committee is this still - the
18 consensus still the same in supporting or
19 recommending is or was indigenous to the U.S.

20 DENNIS O'ROURKE: I haven't thought about it
21 long and hard. It just came up. Off the top of my
22 head, I would say I'm perfectly happy to have it
23 read that way, and I'd be happy to put it in the
24 report. Again, apparently it's been there before
25 and was taken out, for what reasons I don't know.

1 MELANIE O'BRIEN: I will suggest that right now
2 you have a recommendation in the draft, that's
3 recommendation number 7, which reads - which asks
4 Congress to hold hearings to determine whether
5 amendments to the Act should be considered that
6 would expedite the repatriation process and support
7 the National NAGPRA Program in its revisions to the
8 current regulations. I believe that in the past,
9 the Review Committee has advocated, not necessarily
10 for a position on this question, but that Congress
11 take it up and consider it, which is different.
12 And so you might want to look at that
13 recommendation and how you might want to -

14 DENNIS O'ROURKE: I was going to say, would it
15 be probably maybe more appropriate then, to say for
16 example, considering this issue is versus was and
17 is or was, and use that as an example of something
18 that might be pursued in that point?

19 MELANIE O'BRIEN: Yes, you might want to talk
20 about altering the language of that number 7
21 recommendation to include some more specific
22 questions that the committee is asking Congress to
23 consider.

24 HEATHER EDGAR: I was just going to say that I
25 do remember when this first came up years ago and I

1 certainly - I had opinions at the time concerning
2 "is or was," and if I remember correctly I didn't
3 have any problem with it. But to tell the truth,
4 as a layperson at that point my opinions didn't
5 hold any weight whatsoever, and I would prefer to
6 give more time and thought - more time and
7 thoughtfulness to this consideration rather than
8 the couple of minutes we have here before lending -
9 before voting on it. Also I think it's possible
10 that when - if we ask Congress to reconsider some
11 of the wording in the statute or in the
12 regulations, there may be components of those words
13 that are more important and have more importance in
14 the way we implement or recommend that the law be
15 implemented than "is or was." And so I would be
16 kind of sorry to see if that was the - I don't
17 know, because I would have to spend a lot of time
18 really looking at it, and that's what I'm talking
19 about it. I'd want to be thoughtful about it
20 because I'm just not some person on the street
21 anymore. And so I wouldn't want to direct their
22 attention just specifically to that change where
23 there might be other changes that are more
24 important, more valuable, and would cause more
25 process to occur.

1 ARMAND MINTHORN: Cissy.

2 LINDALEE FARM: I would agree that this is an
3 issue that requires some thought and some
4 discussion, and that's not to say that we can't
5 have a preliminary discussion now but to bring
6 something basically out of the blue and then have
7 expectations that we'll have some sort of agreement
8 on that I think is a little bit wishful. So in the
9 past when we've had this discussion there has been
10 a certain amount of back and forth, and therefore,
11 the decision that - the suggestion that Congress
12 hold hearings on it rather than foisting our
13 opinions about things and having a little bit of
14 divisiveness over it, to broaden the subject and to
15 actually give it thoughtful consideration beyond
16 just this group. So I would welcome a discussion
17 on it, if people are prepared to have a discussion
18 at this point, but I would also think that that's
19 probably not something that should be included in
20 our report to Congress since we're at the eleventh
21 hour and we're talking about that. It's probably
22 something that could be elaborated more in our
23 subcommittee of the committee of the whole as to
24 perhaps some of the issues that we want to talk
25 about, and that needs to be further addressed at

1 this point, I think, as well.

2 **REVIEW COMMITTEE MOTION**

3 DENNIS O'ROURKE: And while we're talking about
4 this, and you mentioned the subcommittee of the
5 committee as a whole, we discussed that earlier but
6 took no action. I think we require a motion and a
7 vote to constitute a subcommittee of the committee
8 of the whole. Am I correct in that? Because we
9 had anticipated that if we were to do that, we
10 could hold more teleconferences between face-to-
11 face meetings and be a bit more productive. So I
12 think we actually have to act on that, since we had
13 discussed it earlier. I'm happy to make a motion
14 that we simply approve constituting a subcommittee
15 of the committee of the whole that will hold more
16 regular telephonic conferences to deal with issues
17 as they arise between meetings. That's basically
18 what we discussed this morning.

19 MELANIE O'BRIEN: Just for the sake of clarity,
20 the subcommittee would be to discuss issues, to
21 provide information but it would not allow you to
22 take any action on any of those issues. Any action
23 would have to take place in a public meeting.
24 Likewise, there would have to be some reporting
25 back to the public about those subcommittee

1 meetings. I would suggest that we perhaps do at
2 least minutes of those meetings so that there's a
3 clear record of those subcommittee meetings.

4 DENNIS O'ROURKE: Such meetings would be a
5 forum where we could have a general discussion
6 after each of us had thought about these kinds of
7 issues, if we wanted to bring them up or not in a
8 face-to-face meeting, to include in future reports
9 or other actions for the committee.

10 PATRICK LYONS: I guess there's a motion on the
11 floor?

12 ARMAND MINTHORN: Restate the motion?

13 MELANIE O'BRIEN: The motion is to constitute a
14 subcommittee of the whole to meet in between your
15 public meetings to gather information about some of
16 these topics.

17 ARMAND MINTHORN: And this would include the
18 report to Congress?

19 MELANIE O'BRIEN: This would include some of
20 the topics that you're discussing.

21 ARMAND MINTHORN: Okay. All right. Is there a
22 second?

23 PATRICK LYONS: I would second.

24 ARMAND MINTHORN: Any more discussion?

25 HEATHER EDGAR: Can I ask what the subcommittee

1 is called?

2 MELANIE O'BRIEN: Subcommittee of the whole.

3 HEATHER EDGAR: Because usually committees have
4 a task.

5 MELANIE O'BRIEN: Carla just said it's the
6 super subcommittee.

7 HEATHER EDGAR: If we have no task, that's
8 fine.

9 MELANIE O'BRIEN: Well, I have a list of tasks
10 actually, so I think the task is to discuss some of
11 these items.

12 ARMAND MINTHORN: Cissy.

13 LINDALEE FARM: I think the point of that is to
14 not restrict it but to have it sort of - the
15 ability to discuss various topics, rather than a
16 pointed agenda or a singular topic. It's so that
17 we can talk about the various issues that we have
18 discussed previously and to flesh them out a little
19 bit so that we can have a meaningful conversation
20 when we make a decision.

21 HEATHER EDGAR: Except we can't make a
22 decision.

23 LINDALEE FARM: That's correct.

24 ARMAND MINTHORN: Any more discussion?

25 PATRICK LYONS: I have a question, if that's

1 okay, Chairman? So would this subcommittee of the
2 whole be the venue where we discuss, for example,
3 our potential meeting with representatives at
4 Interior?

5 ARMAND MINTHORN: Yes.

6 PATRICK LYONS: Okay.

7 ARMAND MINTHORN: Any more discussion?

8 DENNIS O'ROURKE: Call the question.

9 ARMAND MINTHORN: All those in favor of the
10 motion raise your right hand?

11 MELANIE O'BRIEN: For the record, those in
12 favor, Dennis O'Rourke, Steve Titla, Patrick Lyons,
13 LindaLee Cissy Farm, Heather Edgar.

14 ARMAND MINTHORN: Opposed?

15 Abstain?

16 Motion carries. Okay.

17 MELANIE O'BRIEN: The National NAGPRA Program
18 would be happy to help coordinate scheduling and
19 teleconference for those subcommittee meetings.

20 This brings you back to your report to
21 Congress and its current state as a draft. You
22 have at this point developed a list of barriers and
23 a list of recommendations that you want to present
24 in this report.

25 DENNIS O'ROURKE: I'll just reiterate what I

1 said this morning. I read both of those lists this
2 morning; the list of barriers is amplified with
3 explanatory text, and some discussion of possible
4 remedies. The list of recommendations to Congress
5 relies on those but doesn't repeat them in an
6 effort to keep the document somewhat shorter and
7 more focused.

8 MELANIE O'BRIEN: I believe in addition to
9 that, Mr. Titla expressed a desire to see a
10 complete draft before voting for approval.

11 DENNIS O'ROURKE: Correct.

12 ARMAND MINTHORN: Okay. Any more discussion?
13 Cissy.

14 LINDALEE FARM: It's my understanding that our
15 scheduled telephone conference is on December 14th.
16 Am I remembering correctly?

17 MELANIE O'BRIEN: That's correct. It is
18 scheduled for December 14th at 2:00 p.m. Eastern
19 time.

20 LINDALEE FARM: So I would just ask when we
21 could expect a draft so that we could give it
22 thoughtful consideration prior to that time.

23 DENNIS O'ROURKE: I will do my best to get it
24 out within the next three to four days, and then my
25 travel schedule and moving schedule is such you

1 won't hear from me again. I'm going to be lucky to
2 make the 14th conference call. I may be on the
3 highway, although I'm hoping that's not the case.

4 ARMAND MINTHORN: Okay. Anything else?

5 All right. Moving on.

6 **ACTION ITEM: UPCOMING MEETING DATES AND LOCATIONS**

7 MELANIE O'BRIEN: Okay. Moving on, the next
8 item on the agenda is a discussion of your next
9 meeting. The National NAGPRA Program has prepared
10 a map of locations that the committee has
11 previously met. We also have kept a list of
12 invitations that the committee has received to hold
13 its next meeting. I will say that you are not
14 bound by an invitation. You're welcome to request
15 that the committee meet anywhere you feel is a good
16 location.

17 Some of the locations that you have been
18 invited to include Juneau, Alaska; Salt Lake City;
19 Missoula, Montana; anywhere in the state of
20 Arizona; Denver, Colorado; Western New Mexico
21 University in Silver City, New Mexico. I have
22 received on your behalf invitations to Reno,
23 Nevada, from the Pyramid Lake Paiute Tribe, also an
24 invitation to northern California from the Blue
25 Lake Rancheria. You received today an invitation

1 to Bloomington, Indiana, and you've also received
2 an invitation to meet in Choctaw, Mississippi.

3 The National NAGPRA Program would like to
4 recommend that the committee meet in the summer of
5 the coming year, perhaps in June or July, depending
6 on your schedules, and work towards a general shift
7 slightly in the calendar for the Review Committee
8 meetings.

9 ARMAND MINTHORN: Well, to start things out,
10 all the invitations that the committee has received
11 and then too the citing that the committee has not
12 had too much focus on the Midwest. And certainly,
13 we can't be everywhere. So would recommend the
14 committee consider Denver, Colorado, for our next
15 meeting in June.

16 STEVE TITLA: Chairman?

17 ARMAND MINTHORN: Steve.

18 STEVE TITLA: Have we ever been to Denver
19 before?

20 MELANIE O'BRIEN: Yes, two meetings have been
21 held in Denver. The last time the Review Committee
22 met in Denver was in 1996 - no, 2006.

23 STEVE TITLA: Chairman? I think that it's my
24 opinion that we should try to go where the Review
25 Committee has not been before in the United States.

1 There's a lot of empty space there, and I think
2 Montana is one area we haven't been or Indiana. I
3 don't know where Indiana is on that map, but it's
4 probably in an empty space. So those are areas
5 that I think we should consider.

6 ARMAND MINTHORN: Missoula was mentioned,
7 Missoula, Montana.

8 DENNIS O'ROURKE: We have not met near there
9 for a very long time. I would certainly support
10 the nomination of Missoula.

11 ARMAND MINTHORN: Missoula, Montana.

12 MELANIE O'BRIEN: I would ask the committee to
13 give me three recommended locations, and I will
14 work on identifying an appropriate venue for the
15 meeting.

16 STEVE TITLA: Chairman.

17 ARMAND MINTHORN: Steve.

18 STEVE TITLA: I recommend Indiana as one spot,
19 as one for her to consider.

20 DENNIS O'ROURKE: And it's also been a long
21 time since we met in the Southeast. I would
22 recommend the third site be the invitation to
23 Mississippi. I forgot the geographic location -

24 (Inaudible comment.)

25 DENNIS O'ROURKE: - Philadelphia, Mississippi.

1 ARMAND MINTHORN: So Dennis, you're saying
2 Mississippi?

3 DENNIS O'ROURKE: Yes, that would be my
4 suggestion for the third site.

5 ARMAND MINTHORN: Okay, Melanie, we have
6 Missoula, Montana, Mississippi, and Indiana.

7 MELANIE O'BRIEN: Okay. I will go forward and
8 identify an appropriate location. Does the
9 committee have any other requests in our effort to
10 identify an appropriate facility, any other
11 considerations, aside from location?

12 ARMAND MINTHORN: Cissy.

13 LINDALEE FARM: I understand that there have
14 been a number of longstanding, outstanding
15 invitations, and I think if we're looking at a
16 certain geographical area, we should, as a courtesy
17 reach out to those who have extended the
18 invitations in the past because many of them have
19 been very, very gracious. And I think that we
20 should take the opportunity to meet where we have
21 been invited.

22 ARMAND MINTHORN: And we talked about this
23 briefly, Melanie and Carla, wherever we meet, those
24 three places, we need to strongly invite BLM to
25 report and update us on Spirit Cave, and then also

1 it would be beneficial if we can strongly invite
2 and put the Federal agencies on the schedule to
3 meet with this committee regularly. And then too,
4 last thing, Melanie, is it was mentioned earlier
5 this afternoon the museums that are noncompliant,
6 they need to be factored into the schedule as well.

7 MELANIE O'BRIEN: I'll be happy to extend
8 invitations and have discussions with those
9 different groups. Are there any other agenda items
10 or considerations you'd like me to -

11 DENNIS O'ROURKE: I just wanted to come back to
12 Cissy's comment. I don't know what outstanding
13 invitations there might be from past years. I know
14 of one that was discussed earlier, and it was
15 deemed perhaps fiscally inappropriate to go there
16 just because it would be very expensive. But I
17 don't know if there are other invitations of long-
18 standing that should be considered.

19 STEVE TITLA: Chairman?

20 ARMAND MINTHORN: Steve.

21 STEVE TITLA: I know that we were invited by
22 Rosita Worl to Alaska last year in conjunction with
23 some Native event that they're having up there in
24 Anchorage, I think. But the feeling I get from
25 NAGPRA is that we don't have the funding for that

1 kind of thing. But next year, we're meeting only
2 one time, which is in June or July. Usually we
3 meet two times, in the spring or fall. So she's
4 invited us before when she was on the committee and
5 we were thinking seriously about it, but then the
6 prior DFO decided to go somewhere else. I can't
7 remember where we went, but we didn't go there last
8 year because of that.

9 MELANIE O'BRIEN: That is correct. You do have
10 an invitation to attend celebrations in Juneau,
11 Alaska. We do have a plan to only meet in person
12 one time next calendar year. However, the
13 Government functions on a fiscal year basis, and we
14 will meet - this meeting is the first meeting in
15 the fiscal year. We will meet again this fiscal
16 year, and then we will have two meetings in the
17 next fiscal year. So the calendar year and the
18 fiscal year difference doesn't necessarily mean
19 there's a fiscal savings there. But I appreciate
20 the continued desire to go to Juneau, and I will
21 certainly relay that information and keep that in
22 consideration as we budget the travel expenses for
23 the Review Committee.

24 ARMAND MINTHORN: Okay, anything else from the
25 committee?

1 **CLOSING COMMENTS**

2 ARMAND MINTHORN: Melanie, as we begin to wrap
3 up here, I want to thank you, Melanie, Carla and
4 Steve, Lesa, for your work here. Thank everybody
5 here that's still here. This only goes to show us
6 that this is important to you. And it is a big
7 help for us when you folks can stay for this long
8 to hear and to actually know what's going on but
9 also it's important too that we hear directly from
10 you. That's why the public comment periods are
11 here in this part of this meeting. But if there's
12 other places and other times, whether it be a phone
13 call or email, please let us hear your voice
14 because it's important that we know and become
15 familiar or just to get to know you. But open
16 communication is critical and it's important.

17 So again, I want to thank all of you folks
18 that are still here for staying this long. And
19 thank you, Melanie, and your coworkers.

20 MELANIE O'BRIEN: Thank you very much. I'd
21 just like to add to that that a number of times the
22 committee has asked that different presenters keep
23 you updated on the status of projects or issues
24 that they've raised with you. Anyone is welcome to
25 provide updates directly to me, and I will

1 distribute those to the committee. We do have a
2 regular communication process in place, and I'd be
3 happy to facilitate those updates through
4 communication with the Review Committee.

5 ARMAND MINTHORN: All right. We'll wrap up and
6 we'll close here. I guess a question for you folks
7 out there, is anybody here from Chickasaw? Is
8 there any other tribe here from Oklahoma?

9 MELANIE O'BRIEN: Yes, one representative from
10 Chickasaw is here.

11 ARMAND MINTHORN: Okay. Any other tribes here
12 from Oklahoma? Okay. I'm going to leave it up to
13 you folks that are here from Oklahoma and Chickasaw
14 that do the closing prayer.

15 **CLOSING PRAYER**

16 IAN THOMPSON: (Closing prayer.)

17 ARMAND MINTHORN: Thank you. Thank you,
18 everybody. We're adjourned.

19 MELANIE O'BRIEN: Thank you, Mr. Chair.

20 **MEETING ADJOURNED**

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