

NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE MEETING

NOVEMBER 1, 2023

VIRTUAL MEETING

Note: In the interest of time, the transcripts for meetings 86-87 are posted absent the usual final review and may contain minor typographical and punctuation errors. Although these transcripts are a reliable reference, I would encourage you to also refer to the currently posted meeting recordings on the National NAGPRA Program website.

~Lesa Koscielski, 1/26/24

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

2:00 p.m. EASTERN

November 1, 2023

Virtual Meeting

COMMITTEE MEMBERS PRESENT:

Mr. Halealoha Ayau - Chair

Mr. Timothy McKeown - Vice Chair

Ms. Domonique deBeaubien

Ms. Angela Garcia-Lewis

Mr. Armand Minthorn

Mr. Toby Patrick

Ms. Shelby Tisdale

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1 **CALL TO ORDER AND ROLL CALL**

2 MELANIE O'BRIEN: Hello, everyone, and welcome
3 to this, the 86th meeting of the Native American
4 Graves Protection and Repatriation Review Committee.
5 My name is Melanie O'Brien, and I am the Designated
6 Federal Official to the Review Committee.

7 Before we begin, I would like to remind
8 everyone that this meeting is being recorded. The
9 recording, transcripts, and meeting minutes will be
10 made publicly available after this meeting and will
11 include the names of those in attendance. If you
12 object to this, you may disconnect at this time.

13 This is a public meeting of a Federal advisory
14 committee established by the Native American Graves
15 Protection and Repatriation Act (NAGPRA) of 1990,
16 and this meeting is held under the Federal Advisory
17 Committee Act (FACA) and its implementing
18 regulations. This meeting was noticed in the *Federal*
19 *Register* on October 3rd, 2023. An agenda for this
20 meeting and the materials are posted to the NAGPRA
21 Program Events page.

22 <https://www.nps.gov/orgs/1335/events.htm>

23 The Secretary of the Interior issued a charter
24 for this Review Committee in November 2022, which
25 governs its objectives and scope of the Committee's

1 activities. The purpose of the Review Committee is
2 to monitor and review the inventory and
3 identification process and repatriation activities
4 under Sections 5, 6 and 7 of the Act. The Review
5 Committee is also responsible for reporting to
6 Congress on the progress and any barriers
7 encountered in carrying out its responsibilities.

8 FACA requires that advisory committee
9 membership be "fairly balanced in terms of the
10 points of view represented and the functions to be
11 performed." To achieve this, NAGPRA requires that
12 the Review Committee be comprised of seven members:
13 three members nominated by national museum
14 organizations and scientific organizations; three
15 members nominated by Indian Tribes, Native Hawaiian
16 organizations, and traditional Native American
17 religious leaders with at least two such persons
18 being traditional Indian religious leaders; and one
19 member appointed from a list of persons developed
20 and consented to by all the other members. Members
21 are appointed by the Secretary of the Interior and
22 serve as advisors to the Secretary on NAGPRA issues.

23 Currently, the Review Committee has seven
24 appointed members. Mr. Toby Patrick, a traditional
25 Indian religious leader, was appointed by the

1 Secretary of the Interior on June 1st, 2023, and is
2 with us today for his first meeting.

3 With that as introduction, I'd like to start
4 with a roll call of the Committee members, please
5 answer out loud.

6 Halealoha Ayau?

7 HALEALOHA AYAU: Aloha.

8 MELANIE O'BRIEN: Domonique deBeaubien?

9 DOMONIQUE DEBEAUBIEN: Present.

10 MELANIE O'BRIEN: Timothy McKeown?

11 TIMOTHY MCKEOWN: Present.

12 MELANIE O'BRIEN: Armand Minthorn?

13 ARMAND MINTHORN: Here.

14 MELANIE O'BRIEN: Toby Patrick?

15 TOBY PATRICK: Here.

16 MELANIE O'BRIEN: Shelby Tisdale?

17 SHELBY TISDALE: Here.

18 MELANIE O'BRIEN: Angela Garcia-Lewis?

19 Angela Garcia-Lewis informed me that she would
20 be unable to participate in today's meeting, but she
21 is listening via phone. The charter for the Review
22 Committee does not contain a quorum requirement and
23 a meeting may be held with fewer than seven members
24 in attendance. As the Designated Federal Official, I
25 have determined this meeting can proceed with only

1 the six members present.

2 I would like to acknowledge the individuals
3 assisting me in conducting today's meeting. With me
4 are two attorneys from the Department of the
5 Interior, Office of the Solicitor: Brady Blasco,
6 with the Division of Parks and Wildlife, and Stephen
7 Simpson, with the Division of Indian Affairs. From
8 the National NAGPRA Program, Lesa Koscielski is the
9 Review Committee Coordinator, responsible for
10 organizing this meeting and preparing the minutes
11 and transcripts of these proceedings.

12 With that, I hereby call this meeting to order.

13 Before we begin with our agenda for today, I
14 believe the Committee would like to open with a
15 traditional opening. Toby, I believe you have agreed
16 to provide that opening.

17 **TRADITIONAL OPENING**

18 TOBY PATRICK: I'd like to take this time to
19 sing a song from our area here.

20 TOBY PATRICK AND ARMAND MINTHORN: (Native
21 American song.)

22 ARMAND MINTHORN: Just a few words here before
23 we begin. Ask our Creator today to guide our
24 thoughts, our words. Ask our Creator today to watch
25 over our families and our friends. And we ask the

1 Creator today to help us go forward one day at a
2 time, one step at a time, one word at a time. And
3 that our Creator will watch over us, in this work
4 that we do. And that the Creator can help us as a
5 team and help us go forward. Truly thankful today
6 for all the people that are involved. This is a
7 wonderful work you have created today to help us
8 with this work. Thank you.

9 (Native American language.)

10 Thank you.

11 HALEALOHA AYAU: Mahalo.

12 MELANIE O'BRIEN: Thank you very much. Thank you
13 very much.

14 TOBY PATRICK: Thank you.

15 **SELECTION OF CHAIR**

16 MELANIE O'BRIEN: Moving on to the first agenda
17 item today is a selection of a chair. Under the Act
18 and the current charter, the Review Committee is
19 responsible for designating one of its members to
20 chair the Committee. Under the Committee's meeting
21 procedures, the Review Committee opted to select a
22 chair and a vice chair, who serve two-year terms. On
23 November 12th, 2021, Tim McKeown was selected as
24 vice chair. On January 5th, 2023, Halealoha Ayau was
25 selected as chair of this Committee, but with a

1 caveat that he would only serve until a full
2 Committee was appointed. As the selection of the
3 chair is a responsibility of the Committee, I now
4 turn this discussion over to the Committee.

5 HALEALOHA AYAU: We will entertain nominations
6 for chair.

7 TIMOTHY MCKEOWN: This is Tim McKeown. I would
8 like to nominate Halealoha Ayau as chair.

9 HALEALOHA AYAU: Are there any more nominees?
10 One last call, any additional nominees before we -

11 Okay. Having heard none, Melanie, does that
12 mean we still vote, or I just continue?

13 MELANIE O'BRIEN: We can just continue. That's
14 fine. Yes, it's up to you to designate a member. If
15 anyone is opposed to designating Halealoha Ayau as
16 chair, you can speak up.

17 I think that settles it, Mr. Chair.

18 HALEALOHA AYAU: Thank you. I appreciate it.

19 Members, I think we also should accept
20 nominations for vice chair, since I believe Tim's
21 term is expiring this month, prior to our next
22 meeting?

23 MELANIE O'BRIEN: Yes, that is correct.

24 HALEALOHA AYAU: All right. So, members,
25 nominees for vice chair?

1 DOMONIQUE DEBEAUBIEN: Tim, are you interested
2 in continuing your role as vice chair?

3 TIMOTHY MCKEOWN: I would be willing to do that
4 until June the - whatever the day of the end of my
5 term, but I would urge everybody to make sure that
6 this position is filled when I go.

7 HALEALOHA AYAU: Agreed.

8 DOMONIQUE DEBEAUBIEN: I'd be glad to nominate
9 Tim as vice chair until his term expires.

10 HALEALOHA AYAU: Tim McKeown has been nominated
11 for vice chair until his term expires. Are there any
12 other nominees for vice chair?

13 Okay, having heard none, all in favor of Tim
14 McKeown for vice chair say aye.

15 ARMAND MINTHORN: Aye.

16 TOBY PATRICK: Aye.

17 SHELBY TISDALE: Aye.

18 TIMOTHY MCKEOWN: And I abstain.

19 HALEALOHA AYAU: I believe the "ayes" have it.
20 And thank you, Dr. Tim McKeown, for continuing as
21 vice chair of the Review Committee.

22 Turn the agenda back over to you, Melanie.

23 **NATIONAL NAGPRA PROGRAM REPORT**

24 MELANIE O'BRIEN: Okay, thank you very much.
25 We'll continue on to the next item on the agenda,

1 which is a report from the National NAGPRA Program.

2 To begin my report on the National NAGPRA
3 Program, I'd like to first describe the
4 responsibilities that are delegated to the Program
5 by the Secretary of the Interior. The Program
6 Manager is charged with publishing notices in the
7 *Federal Register*, receiving and recording
8 inventories and summaries as required by NAGPRA, and
9 providing advice and assistance to NAGPRA
10 constituents. The Program Manager provides staff
11 support on civil penalties, administers grants to
12 Tribes and museums, and drafts regulations to
13 implement NAGPRA. Finally, the Program Manager
14 serves as the Designated Federal Official to the
15 Review Committee.

16 As the manager, I'm only able to carry out
17 these delegated responsibilities because of the
18 dedicated staff of the National NAGPRA Program.
19 Joining me today on this call is our small but
20 mighty team, David Barland-Liles, the Investigator,
21 Laurie Jennings, the Documents and Reports
22 Coordinator, Lesa Koscielski, the Review Committee
23 Coordinator, Angie Miller, Grants Management
24 Specialist, Mariah Soriano, Compliance and Website
25 Coordinator, and David Tarler, Training,

1 Enforcement, and Regulations Coordinator. I really
2 am deeply indebted to each and every one of these
3 individuals for the work that they've done over the
4 last year and over the last several years in
5 supporting me as the manager of the Program.

6 I would like to provide the Committee with a
7 brief update on the work of the National NAGPRA
8 Program as of the end of the fiscal year 2023. Our
9 fiscal year in the Federal Government begins on
10 October 1st and ends on September 30th. We have not
11 published our annual Program report for fiscal year
12 2023, which ended on September 30th, 2023, but we
13 hope to do so before the end of this month and prior
14 to your next meeting. We have published our annual
15 data visualizations on Tableau, which you can access
16 through the NAGPRA Program website. And I will ask
17 Lesa to post a link in the chat. And of course, you
18 can always access up-to-date, real-time data through
19 the NAGPRA Program website and our databases, which
20 are updated in real time as notices are published
21 and documents are updated and entered.

22 By every measurement, this has been a record-
23 breaking year for the National NAGPRA Program and
24 for the larger NAGPRA community. As the
25 administrative and bureaucratic arm of this process,

1 we have a very unique perspective on the work of
2 repatriation across the country. And while these
3 Program reports may come across as a lot of numbers
4 and statistics, I'm reminded every day that with
5 each notice that gets published and every inventory
6 that is updated, it means that another ancestor is
7 closer to being respectfully returned.

8 As you're all very well aware, this year we
9 were pleased to return to holding in-person Review
10 Committee meetings, after our long COVID hiatus, at
11 Indiana University. We were pleased to be able to
12 reconvene in person again, and along with the rest
13 of the world, we continue to try to navigate this
14 new hybrid world within the limits of our staff
15 capacity and Federal technology. Meeting minutes,
16 transcripts, as well as recordings from the June
17 meeting, are available on our website.

18 As you are also aware, the Department published
19 proposed regulations in October 2022. The deadline
20 for public comment was in January of '23. We
21 received a large number of public comments, a total
22 of 181 submissions. And on September 21st, 2023, the
23 Office of Management and Budget began its review of
24 the final rule, which is the last step in the
25 rulemaking process. The Department still hopes that

1 the final rule will be published before the end of
2 the calendar year, December 2023.

3 In fiscal year '23, Congress appropriated the
4 largest amount of grant funding in the history of
5 the NAGPRA Program, 3.4 million dollars. The grant
6 program supports two types of grants, project grants
7 for up to 100,000 dollars for consultation and
8 documentation programs - or projects, excuse me, and
9 repatriation grants of up to 15,000 dollars for
10 direct repatriation expenses.

11 We announced grant awards in August to 16
12 Indian Tribes and 28 museums. Unfortunately, the
13 request for grant funds still exceeded the funds
14 that were available. We received applications
15 requesting over 4 million dollars and several grant
16 applications were not awarded this year. On a
17 positive note, however, in addition to being the
18 largest amount ever appropriated for NAGPRA grants,
19 it was also the largest number and the largest
20 amount awarded for repatriation grants. We awarded
21 21 grants totaling over 271,000 dollars.

22 Along with the grant program carrot comes the
23 civil penalty stick of NAGPRA. The Program receives,
24 evaluates, and investigates allegations that museums
25 have failed to comply with the requirements of

1 NAGPRA. In fiscal year '23, we received 13
2 allegations of failure to comply. In addition, the
3 Program has fielded an increasing number of requests
4 for assistance with general enforcement actions,
5 generally from members of the public, and we are
6 continuing to work with both the specific cases that
7 come into our office but also on our process and
8 protocols for handling both allegations, as well as
9 these inquiries and requests for assistance.

10 And we continue to provide advice and
11 assistance to anyone who requests it through phone
12 calls or emails to our Program inbox,
13 NAGPRA_info@nps.gov. With general increased
14 attention and information about NAGPRA in the media
15 and in the general consciousness, we have seen an
16 increase - a significant increase in requests for
17 assistance on a wide variety of NAGPRA issues. Each
18 call and email that comes into our office can
19 require a significant amount of time to, first,
20 figure out really what the problem is, but then to
21 assist with a proper resolution. And while we are
22 always happy to assist with questions, we also
23 encourage anyone seeking information to first
24 consult our website, especially the training
25 resources we have available. We are currently

1 working on new training resources to accompany the
2 publication of the final regulations, so be sure to
3 check our website for new resources over the coming
4 months.

5 The Program continues to work very closely with
6 museums and Federal agencies to update and amend
7 inventories and summaries and to ensure that the
8 databases are accurate. Our inventory data, which
9 comes directly from the documents submitted by
10 museums and Federal agencies, has always been
11 publicly available through our databases and since
12 2020 has been in more accessible formats available
13 to download.

14 We do want to note one change in how we
15 reported inventory data this year. A large number of
16 human remains were pending publication on September
17 30th, 2023. About - just a little over 4,000
18 ancestors were pending notice publication at the end
19 of the fiscal year. So, in the report for this year,
20 we are showing those as - the status of those human
21 remains as "pending publication" to reflect that
22 large number that was almost to the finish line of a
23 notice.

24 I also want to point out to the Committee, and
25 I'm very pleased to report, that although the total

1 number of human remains reported under NAGPRA
2 continued to increase again this year as it has in
3 the past, the number of human remains that have
4 completed the NAGPRA process for consultation and
5 notification under the regulations has finally
6 crossed the 50 percent mark to 55 percent. And for
7 the first time in 33 years, fewer than a hundred
8 thousand ancestors, 96,488 to be exact, are still
9 pending consultation and notification under the
10 regulations. So, I realize that many people may feel
11 that even one ancestor in a holding or collection is
12 far too many, I am pleased to report that this
13 downward trend reflects progress in our overall goal
14 of facilitating a respectful return of these human
15 remains.

16 And finally, the biggest record we broke this
17 year was in notice publication. Again, while the
18 number of ancestors and those that are resolved
19 through the notification process we see as a
20 barometer of repatriation work generally, notices
21 are the ultimate sort of end of that process. We
22 received 475 notices this year, and we published 446
23 notices. For several years now, I've reported to the
24 Committee that notice submissions have been
25 increasing, and this year was no exception. In fact,

1 this year blew every other year out of the water. We
2 have received and published two times as many
3 notices as any other year in the history of NAGPRA.
4 We issued new templates for notices last year, which
5 we feel probably helped in assisting museums with
6 filling out notices. It certainly helped us in the
7 speed at which we could review notices and publish
8 them.

9 And I again note for the audience that the
10 closer a notice is to the template, the faster it is
11 for us to review it and submit it for publication.
12 We process notices in the order in which they are
13 received, so I encourage everybody to tell your
14 friends to stay as close to the template as you can
15 and that will help everybody in line.

16 Again, I want to commend the staff of the
17 National NAGPRA Program and our support within the
18 Department of the Interior for all of the work that
19 has allowed us to achieve so much this year in all
20 of the areas that we are responsible for. And with
21 that, I will be happy to answer any questions the
22 Committee has about the work of the National NAGPRA
23 Program.

24 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

25 HALEALOHA AYAU: Members, questions?

1 TOBY PATRICK: The chart, the template thing,
2 that's on the webpage?

3 MELANIE O'BRIEN: Yes, sir.

4 TOBY PATRICK: All right. Thank you.

5 DOMONIQUE DEBEAUBIEN: Hi, Melanie. Will there
6 be any projected increase in grant funding over the
7 next fiscal year or the next couple fiscal years?

8 MELANIE O'BRIEN: I can't answer that question.
9 Grant funding is through the Congressional
10 appropriations process, which happens every year
11 and, in fact, has not yet happened for this year.
12 So, we don't yet know what grant funds will be
13 available for fiscal year '24. Right now, we are
14 under a continuing resolution and don't know yet
15 what the final funding amount will be.

16 HALEALOHA AYAU: Melanie, may I ask, does the
17 Program recommend the level of funding that it will
18 need in the upcoming fiscal year? And if so, because
19 some of the information that we were - the
20 subcommittee has been acquiring from museums and
21 agencies in terms of costs indicates a much higher
22 level of need. And so, how do we - now that we're
23 seeing the higher numbers, how are we going to
24 respond with respect to that higher need for museums
25 to comply? Because we're moving in the right

1 direction, we just need to get funding that they
2 need to continue consultation and expedite
3 repatriation.

4 MELANIE O'BRIEN: Certainly. And I think that
5 that is best addressed by the Committee in its
6 report to Congress. As Congress is responsible for
7 those appropriations, that is the best way for you
8 to direct that information.

9 HALEALOHA AYAU: A question with regard to
10 notice processing time. It's been our experience
11 that that has improved significantly. Is that the -
12 I don't know, is that the continued trend throughout
13 this past fiscal year in terms of processing time?

14 MELANIE O'BRIEN: Yes, it is due, again, we
15 think, in large part to the template, has made it
16 easier for us to do those reviews. A large change in
17 the template was to only have the list of Indian
18 Tribes or Native Hawaiian organizations once, so we
19 only have to check the names once. That is a big
20 task that we have to do, and that's a big reduction.

21 I will say that the other real improvement has
22 actually been Laurie Jennings's dedication to
23 achieving a certain number of review each week and
24 really setting herself to that task. And I would say
25 it's been a personal objective of Laurie's and a

1 dedication of hers. And I really think she has - the
2 credit really goes to Laurie, I should say, as much
3 as anything. And we've all worked to support her and
4 try to assist with the review as much as we can, but
5 really, it's just been an effort on her part to push
6 through as many as we could.

7 HALEALOHA AYAU: Well, our heartfelt gratitude
8 to Laurie and the staff for doing so. Mahalo.

9 TIMOTHY MCKEOWN: This is Tim. Sorry you can't
10 see me because my camera's not working. I appreciate
11 the question on processing time, and I know that
12 your staff is working really hard to get these done.
13 But I also know that the amount of time that you
14 work on them is not the total amount of time from
15 receipt to publication. There's also another process
16 after you've approved it and until it gets to the
17 *Federal Register*. Has there been any effort to sort
18 of streamline that process any, because I know that
19 can take some time.

20 MELANIE O'BRIEN: That process right now is
21 pretty streamlined. And actually, it is also
22 publicly available or transparent. I sign a notice,
23 and it's dated the date that I sign it. And you can
24 see that that's different than the date that it
25 publishes in the *Federal Register*. Typically, the

1 difference between the date that I sign it and the
2 date that it publishes is somewhere between four or
3 five days.

4 TIMOTHY MCKEOWN: Thank you.

5 MELANIE O'BRIEN: Depending on weekends, but you
6 can see - well, weekends and sometimes vacations and
7 occasionally, I don't sign them as quickly as Laurie
8 tells me to, so that's sometimes on me. But my
9 signature date is when I sign it and then it
10 publishes. That's the only other review period you
11 can find and calculate that date.

12 TIMOTHY MCKEOWN: So, do notices still have to
13 be reviewed by Exec Sec?

14 MELANIE O'BRIEN: Anything that gets published
15 in the *Federal Register* within the Department of
16 Interior has to go through a review process within
17 the Department of the Interior.

18 TIMOTHY MCKEOWN: And that happens after your
19 signature?

20 MELANIE O'BRIEN: That is correct.

21 TIMOTHY MCKEOWN: Okay. Thank you.

22 ARMAND MINTHORN: Mr. Chair.

23 HALEALOHA AYAU: Yes, sir.

24 ARMAND MINTHORN: First, Melanie, your report is
25 a very good report. And the objectives and the

1 accomplishments and you cited some accomplishments
2 that exceeded past years. And you and your people
3 there at the least need to be commended, because
4 things now are beginning to show not only better
5 communication, but it's enabling more
6 accomplishment. And this is a good thing. And it can
7 only get better, Melanie, and it will get better.
8 But I truly appreciate the people that you work
9 with. The ones that we don't see, the ones that we
10 don't hear about, but the ones in the background
11 need to be applauded because it's a big engine.
12 You're the captain, Melanie. And you've got a good
13 crew. And because of that crew, all of these
14 accomplishments that you cited are very good. And us
15 as a Committee is only better for the work that we
16 do. And again, Melanie and Lees and crew, thank you
17 for all of your wonderful work, the hard work that
18 you do.

19 So, a question, Melanie. During the report, the
20 report to Congress, what's the status with that
21 report?

22 MELANIE O'BRIEN: Yes, with your report to
23 Congress, the Committee has not finalized its report
24 yet. That is something you will be discussing today.

25 ARMAND MINTHORN: Okay. So, asking the

1 Committee, let's move forward. Let's approve it.

2 Thank you.

3 MELANIE O'BRIEN: And Armand, I want to thank
4 you for that statement. I appreciate it. I want to
5 say that I know the staff appreciates hearing those
6 words from you, as well. It is very meaningful to
7 them to know that their work is recognized. I think
8 that they are all happy that I'm the captain and
9 they're not sitting here in this seat, but they also
10 very much appreciate the recognition and the
11 acknowledgement of how much they contribute to this
12 work. So, thank you.

13 HALEALOHA AYAU: I would echo that support, as
14 well.

15 ARMAND MINTHORN: Finally, Melanie, it only
16 comes to light that there's no "I" in team. Thank
17 you.

18 HALEALOHA AYAU: Further questions?

19 So, Melanie, you said we can expect the APR
20 sometime this month but prior to our November 30th
21 meeting?

22 MELANIE O'BRIEN: Yes, that is correct.

23 HALEALOHA AYAU: Okay. Any idea? Because we
24 still - that was one reason why we're still working
25 on our draft report is because we were requesting

1 the civil penalties information, so that the initial
2 draft, which was at the subcommittee, could be
3 shared with Armand and Toby who aren't on that
4 Committee before we issued it publicly. But we went
5 ahead and did that pending receipt of that civil
6 penalties information.

7 MELANIE O'BRIEN: Yes. Again, as I am working to
8 get it done as quickly as I can, juggling a lot of
9 other priorities, as I'm sure you're aware, and also
10 want to be sure that we adequately recognize in the
11 annual report all of the successful efforts from
12 this year. So, it is taking me a little longer than
13 I expected to be able to finalize that report. But
14 again, I can't give you any firmer date than I will
15 have it to you before the end of - before the 29th,
16 although I would say, I would hope to have it to you
17 before the Thanksgiving holiday would be my ultimate
18 goal here.

19 HALEALOHA AYAU: Thank you. I'd like to take the
20 time to acknowledge the work of the subcommittee on
21 the report to Congress, the drafts that we've been
22 reviewing, which was continually being updated as
23 information was coming in, just the amount of effort
24 and thought that went into the reviews of those
25 drafts. I'm just sorry that we weren't able to share

1 it with the full Committee before we issued it, so
2 Armand would've seen it before it went out today.
3 But it also needs to be said that there is a very
4 voluminous amount of information that we're
5 presented with that we're reviewing and processing
6 to be able to highlight in our report to Congress,
7 so that's impacting our ability to get the report
8 out. I just want to acknowledge the Review Committee
9 members who've been working very hard on doing so.
10 Mahalo.

11 Are there any further questions for Melanie on
12 the annual program report?

13 MELANIE O'BRIEN: I think if not, we can move on
14 to the next agenda item. The next item on the agenda
15 is a presentation from the U.S. Department of
16 Agriculture, Forest Service. If you'll give me just
17 a minute, I will be sure that the presenter is ready
18 to present. Leslie?

19 **PRESENTATION**

20 **U.S. DEPT. OF AGRICULTURE, FOREST SERVICE**

21 LESLIE SCHMIDT: Yes, good morning. Thank you. A
22 little bit of a cold this morning but thank you very
23 much, and I'm glad that Zoom worked to bring me on.

24 Good morning, Mr. Chairman and members of the
25 Committee. My name is Leslie Schmidt. Good morning.

1 And I am the new Forest Service NAGPRA Coordinator
2 based out of the National Headquarters Office of the
3 Forest Service. I have over 20 years of experience
4 in cultural resource management and a master's
5 degree in biological anthropology. I've worked as an
6 archeologist for the Forest Service for the past 17
7 years, and I started my current position last
8 spring. I am extremely pleased to report that the
9 NAGPRA coordinator position for the Forest Service
10 was converted from a collateral one with other
11 duties to a full-time position on the National
12 Heritage Team. Our previous NAGPRA coordinator,
13 Wendy Sutton, is still active as the Region 3
14 Heritage Program leader, and she's been available to
15 help get me up to speed and answer questions as I
16 go. So, today I would like to provide a brief
17 overview of the Forest Service Heritage Program and
18 discuss our progress made with NAGPRA compliance and
19 our plans moving forward.

20 Within the Forest Service Heritage Program,
21 there is a National Heritage team based in
22 Washington, DC, at the Forest Service headquarters,
23 although this team works virtually across the
24 nation. I myself am in Northern California. This
25 team is led by our agency Heritage Program leader

1 and assistant Heritage Program leader and has
2 recently expanded to include my position, two
3 program specialists, and a national database
4 manager. In addition to this team, there are
5 regional Heritage Program leaders in each of the
6 nine regions in the National Forest System.

7 The headquarters and regional leaders
8 collaborate as a National Heritage team. These
9 leaders oversee and provide guidance to the
10 individual forests within each region. Each forest
11 has a Heritage Program manager and heritage
12 professionals at the district levels. NAGPRA is most
13 often implemented at the forest and district levels
14 since the heritage professionals in the field have
15 the closest relationships with Tribes local to their
16 areas. To assist them through the regulatory process
17 as needed, the NAGPRA coordinator provides guidance,
18 advice, and templates to the field, receives funding
19 requests, tracks progress made, and reports data to
20 the National NAGPRA Program.

21 A little bit about Forest Service collections,
22 they have been historically located at non-Federal
23 museums and curation facilities with small
24 collections sometimes housed on individual Forest
25 Service units. Ongoing work with off forest

1 collections continues to reveal previously unknown
2 human remains and cultural items subject to NAGPRA,
3 and we publish new Notices of Inventory Completion
4 and update summaries as these are identified. Faunal
5 collections have been and continue to be under
6 careful analysis by osteologists to identify
7 potential ancestors within those collections. Museum
8 capacity to look at faunal collections for the
9 identification of ancestral remains and the
10 discovery of these in faunal collections continues
11 to slow the completion of repatriation in our
12 agency, as well as others.

13 In terms of our collection progress, since
14 NAGPRA was enacted the Forest Service has provided
15 summaries or statements of no summary for all Forest
16 Service units. We have published approximately 108
17 Notices of Inventory Completion, including 15
18 revised or corrected notices, and 14, excuse me, 41
19 Notices of Intent to Repatriate. We continue to
20 update notices and publish new notices as new
21 findings are discovered in existing collections.

22 Overall, we have identified 5,566 sets of human
23 remains in collections. That's the minimum number of
24 individuals, or MNI, of which 2,295 ancestors have
25 been repatriated; 747 have not been culturally

1 affiliated and are listed as such with National
2 NAGPRA. Along with the ancestors, approximately
3 2,200 associated funerary objects have been
4 returned, which represents about half of the
5 associated funerary objects identified in Forest
6 Service collections.

7 The Forest Service has been even more
8 successful in repatriating unassociated funerary
9 objects, sacred objects, and objects of cultural
10 patrimony. Over 7,000 items have been repatriated in
11 these categories, which represents 93 percent of
12 items identified as such since NAGPRA was enacted.

13 Progress in collections work is happening at
14 many local units across the agency. As an example,
15 within the past year, a funding agreement was
16 executed between the Tonto National Forest and
17 Arizona State University. The University Museum
18 holds large collections from the Tonto, and they are
19 currently undergoing a phased approach for
20 identification of the ancestors and funerary items
21 in those collections. So far, over 1,400 ancestors
22 have been reported in these collections.

23 Looking into the future, we anticipate
24 publication of the new regulations into adjusting
25 our compliance strategy to conform with them. Our

1 continued engagement with Tribes will be at the
2 forefront as we proceed with this important work. I
3 would also like to develop training for the regions
4 and forests about how regulatory compliance with the
5 anticipated new rule and how that differs from our
6 understanding of NAGPRA compliance in the past. I'll
7 be exploring the creation of a strategic plan for
8 Forest Service collections with NAGPRA ancestors and
9 items and the integration of this data into our
10 already confidential heritage and cultural resources
11 database. This will certainly aid incoming heritage
12 professionals that may need to pick up incomplete
13 NAGPRA work and continue the process.

14 Thank you for the opportunity to present this
15 update. Are there any questions?

16 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

17 HALEALOHA AYAU: Members?

18 ARMAND MINTHORN: Mr. Chair?

19 HALEALOHA AYAU: Yes, Armand, go ahead.

20 ARMAND MINTHORN: Thank you, Leslie, for your
21 report. During your report, Leslie, you cited two
22 numbers. One was 5,600, I believe, sets of human
23 remains, and then also the second number you cited
24 was 4,000. So again, Leslie, can you cite more
25 information with those two numbers?

1 LESLIE SCHMIDT: So, the more than 5,000 sets of
2 human remains and collections have been identified
3 in inventories and 2,295 of those ancestors have
4 been repatriated. So that's the little bit of
5 discrepancy.

6 ARMAND MINTHORN: Then the second number you
7 cited was about 4,000?

8 LESLIE SCHMIDT: I'm sorry. I don't have 4,000
9 in my data, 2,200 associated funerary objects. And
10 then perhaps I gave too many numbers.

11 HALEALOHA AYAU: Can you go over them again,
12 please?

13 LESLIE SCHMIDT: Pardon me?

14 HALEALOHA AYAU: Can you go over the numbers
15 again?

16 LESLIE SCHMIDT: Sure, yes.

17 HALEALOHA AYAU: I have a similar question.

18 LESLIE SCHMIDT: Yes, absolutely. Okay. So, the
19 numbers again are that we have identified 5,566 sets
20 of human remains or ancestors and 2,295 of those
21 have been repatriated; 747 have not yet been
22 culturally affiliated.

23 ARMAND MINTHORN: Okay. And then the last
24 question, Leslie, so during your report you cited
25 holdings of what the Forest Service has. I guess

1 part of the question, Leslie, is how many holdings
2 are there? And within those holdings, have the
3 funerary objects, associated or unassociated,
4 including human remains identifiable and
5 unidentifiable, are there numbers that go with those
6 holdings?

7 LESLIE SCHMIDT: So, I don't have numbers with
8 me about the number of collections the Forest
9 Service has across the agency. What I can tell you
10 is that many of our numbers come from initial
11 inventories from the beginning days of NAGPRA, and
12 that we know that in those beginning days, our
13 numbers were sometimes off. Because of the speed of
14 the work that was happening, sometimes human
15 remains, especially very small pieces, were
16 misidentified as faunal and put into faunal
17 collections. So, now that we know this and that we
18 have learned this over time, we are going back to
19 those faunal collections that have previously had
20 ancestors reported in them, so that we can ensure
21 that all of the ancestors are removed from those
22 collections and repatriated. I hope that answers
23 your question.

24 ARMAND MINTHORN: Yes. And here's the follow up,
25 Leslie. Does the Forest Service know how many

1 collections there are?

2 LESLIE SCHMIDT: I could check on those numbers.
3 I think that sometimes we find new collections, the
4 museums alert us to collections that maybe we didn't
5 know we have in their holdings just through the
6 nature of having these reports or collection
7 agreements get lost over time. So, I can see if I
8 can get those numbers for you.

9 ARMAND MINTHORN: Okay. It's a bit concerning,
10 Leslie, what you just said, "find." You mentioned
11 "find." The Forest Services needs to find; that's a
12 bit concerning, Leslie.

13 LESLIE SCHMIDT: I hear you. I think that what I
14 mean to say is that we can't know if there were
15 collections put on a box and the paperwork misfiled
16 in the past. But what we can do is when we're
17 notified that there are collections or that there
18 could be NAGPRA items or ancestors in these
19 collections, which is new information to us today,
20 and when we're notified of that, that's when we can
21 really get into it and ensure that we're looking
22 closely and identifying all those ancestors and
23 items.

24 ARMAND MINTHORN: Okay. Then last question,
25 Leslie. Does the Forest Service have holdings or

1 collections at UC Berkeley, the Peabody Museum at
2 Harvard, Illinois State Museum, Indiana University,
3 or Ohio History Connection?

4 LESLIE SCHMIDT: If I could get that list of
5 museums from you, I will check up on that.

6 ARMAND MINTHORN: Melanie, can you help with
7 that?

8 LESLIE SCHMIDT: Thank you. Thank you.

9 MELANIE O'BRIEN: Yes. I'll send you the list,
10 Leslie.

11 LESLIE SCHMIDT: Thank you.

12 ARMAND MINTHORN: And just to cite, Leslie, when
13 we had our meeting in Bloomington, it was glaringly
14 brought to our attention of the Committee that these
15 five entities have very, very large collections of
16 human remains that are unidentifiable. That is a
17 very big concern. That universities like these,
18 these places of education can have such large
19 ancestral remains that are unidentified. That's a
20 big concern. And if the Forest Service has
21 collections with these universities, we need to know
22 that.

23 LESLIE SCHMIDT: Yes, I hear you. And I think
24 that part of my role as the full-time NAGPRA
25 coordinator will be to gather all of this data

1 together and create a plan for how to address it.
2 So, I hear your concern. I am also concerned, and I
3 will be more than happy to check into this.

4 ARMAND MINTHORN: Thank you.

5 LESLIE SCHMIDT: You're welcome. Thank you,
6 Melanie.

7 TIMOTHY MCKEOWN: Mr. Chair?

8 HALEALOHA AYAU: Yes. Yes, Dr. McKeown. Go
9 ahead.

10 TIMOTHY MCKEOWN: I just want to thank Ms.
11 Schmidt very, very much for providing detailed and
12 comprehensive cost estimates to us. They are greatly
13 appreciated. They're very useful to us, so thank you
14 very much.

15 LESLIE SCHMIDT: Thank you.

16 HALEALOHA AYAU: If I may, Leslie. Just back to
17 the numbers again.

18 LESLIE SCHMIDT: Sure.

19 HALEALOHA AYAU: To clarify, you said 5,566
20 individuals were identified?

21 LESLIE SCHMIDT: I did, yes.

22 HALEALOHA AYAU: And then the number of
23 repatriated was 2,295?

24 LESLIE SCHMIDT: Yes, correct.

25 HALEALOHA AYAU: And then the number of - not

1 culturally affiliated was 747?

2 LESLIE SCHMIDT: Yes.

3 HALEALOHA AYAU: So, the status of the remaining
4 2,524 remains?

5 LESLIE SCHMIDT: So, those would be the ones
6 that are in inventories but have not yet been
7 repatriated, and that would be something to follow
8 up with into the future, as well, of course.

9 HALEALOHA AYAU: Could you further elaborate on
10 that, inventories that are not yet repatriated? Are
11 they just in the process of consultation, going
12 through the NAGPRA process?

13 LESLIE SCHMIDT: Well, they could - many could
14 be. And also, as we know in the early days of NAGPRA
15 when these inventories were created, they weren't
16 all claimed, so some of them are older inventories
17 that have not had a request for repatriation yet,
18 and that would be - those would be some inventories
19 to look at again and to track down and notify Tribes
20 again, because I'm sure back in the early days, the
21 capacity issues on both Tribes and agencies
22 prevented every last inventory of being followed
23 through with. But I look forward to getting a handle
24 on that and kicking off that notification again.

25 HALEALOHA AYAU: That's really what I was, I

1 guess, leading to is has the Forest Service
2 contacted Tribes to inform them that they have these
3 collections and that the consultation process can
4 proceed, because it seemed like there was a little
5 less than half of the remains are not actively being
6 repatriated.

7 LESLIE SCHMIDT: Right. And many times, it is
8 the individual forests that would be contacting the
9 Tribes, the local Tribes, and some of the forests
10 would have contacted Tribes and would have said,
11 hey, we have this inventory, and I don't know if you
12 remember about it. Because again, with all of our
13 collective memories and the long span of time since
14 the inventories were created. But then there are a
15 forests that maybe have had turnover in their
16 personnel since the inventories were created, and
17 they may not know either. So, I think it's just that
18 issue of the long period of time and the individual
19 capacities of both Tribes and forests that have
20 resulted in that large number that is different.

21 HALEALOHA AYAU: And can we urge the individual
22 forests to -

23 LESLIE SCHMIDT: Oh yes. Yes.

24 HALEALOHA AYAU: - actively expedite. It's the -
25 I guess, the trend to actively contact Tribes and

1 initiate the arduous consultation process?

2 LESLIE SCHMIDT: Absolutely, absolutely. Again,
3 this position was a collateral duty with another
4 position for a very long time. So, the capacity
5 issue even at that level was real. Now that I am in
6 the position with this being my full-time job, I
7 definitely plan to track this down and assist.

8 HALEALOHA AYAU: Much appreciated. Thank you.

9 LESLIE SCHMIDT: Yes, thank you.

10 HALEALOHA AYAU: Members, questions?

11 DOMONIQUE DEBEAUBIEN: Hi, Leslie. I have some
12 questions about some of the numbers that you
13 provided about your future projected expenditures.
14 Can you give us a little bit more information about
15 how you arrived at those figures?

16 LESLIE SCHMIDT: Sure. Now, are you referring to
17 the estimates in the meeting materials?

18 DOMONIQUE DEBEAUBIEN: Yes.

19 LESLIE SCHMIDT: Okay, thank you. One moment
20 while I pull that up really quick. And your question
21 is how we arrived at the previous expenditures or at
22 the estimates?

23 DOMONIQUE DEBEAUBIEN: At the estimates moving
24 forward.

25 LESLIE SCHMIDT: Okay. So, estimates moving

1 forward - and again, I'm having a little bit of
2 trouble finding it just because I'm live, but as far
3 as the expenditures moving forward, we were looking
4 at how we have done repatriation in the past and
5 applying a very broad cost estimate to doing that
6 exact same thing. With that said, I realize that the
7 new regulations may change how we go through the
8 process and how we conduct the repatriation, and I
9 would hesitate to change that estimate until they
10 are published, but I anticipate that it would
11 change, too. So, it was based on how we have
12 previously conducted the repatriation without
13 knowing what the final rule will be.

14 ARMAND MINTHORN: Mr. Chair?

15 HALEALOHA AYAU: Yes, Armand.

16 ARMAND MINTHORN: Throughout this process,
17 Leslie, communication never ends, and it has to
18 continue. And communication not only helps clarify,
19 but it also helps discussion on how objectives and
20 goals could be worked and accomplished.
21 Communication is key, but one of those needs to
22 enable communication to the current consultation
23 policy. And that's the question. Does the Forest
24 Service have a current consultation policy?

25 LESLIE SCHMIDT: Consultation policy per NAGPRA?

1 ARMAND MINTHORN: For Tribes.

2 LESLIE SCHMIDT: Well, I can tell you that
3 across the agency, and again, this would vary based
4 on the individual relationships at each district and
5 at each forest, but we consult with Tribes. Having
6 worked for the agency for a very long time, we
7 consult with Tribes constantly. Management of the
8 lands, the projects that we would like to propose,
9 all of it, Tribes are increasingly more involved in
10 these discussions and decisions.

11 ARMAND MINTHORN: So again, Leslie. Does the
12 Forest Service have a current consultation policy?

13 LESLIE SCHMIDT: We do have directives through
14 our Office of Tribal Relations and within our Forest
15 Service manual and handbook. We do have some policy,
16 yes.

17 ARMAND MINTHORN: Okay. As a note, Leslie, here
18 in the Northwest, there is a problem for
19 consultation.

20 LESLIE SCHMIDT: Okay.

21 ARMAND MINTHORN: And as Tribes know,
22 consultation isn't a phone call or a letter.
23 Consultation is when me and you could sit down at
24 the same table. That's what consultation is. So, you
25 cite Forest Service and their district, et cetera.

1 The consultation, Leslie, has to be implemented with
2 everyone.

3 LESLIE SCHMIDT: I agree.

4 ARMAND MINTHORN: And consultation here in the
5 Northwest with the Forest Service is a problem. So,
6 I'll bring that to your attention.

7 LESLIE SCHMIDT: Thank you, yes. And as you
8 know, relationships and open communication isn't
9 necessarily something that can be directed through
10 policy. So, how consultation is done is going to
11 vary, but I will certainly bring that forward to my
12 agency leaders that it is a problem in the
13 Northwest.

14 ARMAND MINTHORN: Thank you.

15 LESLIE SCHMIDT: Of course.

16 HALEALOHA AYAU: Further questions?

17 SHELBY TISDALE: Mr. Chair?

18 HALEALOHA AYAU: Yes, Shelby.

19 SHELBY TISDALE: Leslie, thank you very much for
20 your report. Really appreciate you speaking to us
21 today. I want to make sure I'm very clear on this.
22 The Forest Service, unlike the National Park
23 Service, does not have repositories for your
24 collections. Your collections are in other
25 institutions, like museums and universities and so

1 on. Is that correct?

2 LESLIE SCHMIDT: That is mostly correct. There
3 are some locations that have smaller collections
4 housed at the local units, but for the most part,
5 collections are in larger university museums or
6 other museums, yes.

7 SHELBY TISDALE: So, in terms of your
8 consultation process, it's also a matter of working
9 with the museums and the museum staff and
10 coordinating these consultations. Is that correct?

11 LESLIE SCHMIDT: Yes. I would say for access, as
12 long as museums have capacity to grant that access
13 and work on the collections work, yes.

14 SHELBY TISDALE: Wonderful. Thank you very much.

15 LESLIE SCHMIDT: Thank you.

16 HALEALOHA AYAU: Any additional questions for
17 Leslie?

18 TIMOTHY MCKEOWN: If I might, Mr. Chair, this is
19 Tim.

20 HALEALOHA AYAU: Yes, sir.

21 TIMOTHY MCKEOWN: I really appreciate you
22 appearing and providing all this information, Ms.
23 Schmidt. I know as a long-serving fed that sometimes
24 it's hard to get your higher administrator's
25 attention on these kinds of issues, but one thing

1 that I'd like to draw your attention to is that in
2 the meeting materials under presentations, there are
3 three documents. One of them from the Chief of Staff
4 of the Secretary of the Interior, one of them - or
5 two of them from the Assistant Secretary for Policy
6 Management and Budget that directs all DOI bureaus
7 to complete Notices of Inventory Completion for the
8 remains in DOI control by the end of April of next
9 year. So, that might be something your
10 administrators might be interested in seeing.

11 HALEALOHA AYAU: Further comments?

12 DOMONIQUE DEBEAUBIEN: Just one more question
13 for me. Do you have a projected timeline on how long
14 it might take you to get a better understanding of
15 how many collections and how many facilities you
16 have housed across the United States?

17 LESLIE SCHMIDT: I don't necessarily have a
18 timeline for that. Being a little new in this
19 position, I'm a little unsure of exactly how that
20 data might be kept and how hard it might be to
21 compile it. So, that could just be my newness at the
22 position, or it could be something larger. So, I can
23 report back on what I find.

24 DOMONIQUE DEBEAUBIEN: Thank you.

25 HALEALOHA AYAU: As a follow-up, can you comment

1 on what's been done, on what efforts were
2 undertaken? I mean, we're - these requirements were
3 passed in 1990. One would hope that we have - the
4 agencies and museums have had more than adequate
5 time to acquire the necessary resources to at least
6 do the identification process. Any comment on what
7 happened in the prior years to get to this point?

8 LESLIE SCHMIDT: As far as the number of
9 collections or the number of collections that may
10 have NAGPRA ancestors or items in them?

11 HALEALOHA AYAU: The latter.

12 LESLIE SCHMIDT: The latter. Okay. I think that
13 what is probably happening is, as I mentioned
14 previously, many times when items or ancestors were
15 identified that perhaps they weren't all identified
16 in the collections, and we wouldn't have known that
17 at the time. It's something that's come to light and
18 has had us reassess some of those collections again
19 to look for things that might have been missed the
20 first time around.

21 HALEALOHA AYAU: Thank you.

22 Members, any further questions for Ms. Schmidt?

23 ARMAND MINTHORN: Mr. Chair?

24 HALEALOHA AYAU: Yes, Armand. Go ahead.

25 ARMAND MINTHORN: Melanie, if you can help me

1 here. Just to start that, Leslie, can report back to
2 us on the number of collections and holdings and
3 also the five institutes that we cited, if the
4 Forest Service had holdings within those five
5 institutes. I think maybe let's get, Melanie, I'm
6 not sure on what other things Leslie may report back
7 to us.

8 MELANIE O'BRIEN: Certainly. We will go over the
9 transcript and send a list to Leslie of information
10 that you requested she submit to you.

11 ARMAND MINTHORN: Okay. Thank you, Leslie.

12 LESLIE SCHMIDT: Thank you very much.

13 HALEALOHA AYAU: Last chance for questions.
14 Having heard none, I'd like to move on.

15 LESLIE SCHMIDT: Thank you.

16 HALEALOHA AYAU: Thank you, Leslie. Appreciate
17 the information.

18 MELANIE O'BRIEN: Yes, thank you, Leslie.

19 LESLIE SCHMIDT: Thank you.

20 MELANIE O'BRIEN: Moving ahead. Mr. Chair, the
21 next item on the agenda is your report to Congress.
22 Before we jump into that, would you like to take a
23 break? We've been at this -

24 HALEALOHA AYAU: Yes, please.

25 MELANIE O'BRIEN: - for an hour. How long of a

1 break would you like to take?

2 HALEALOHA AYAU: Is 10 minutes okay?

3 MELANIE O'BRIEN: That's fine with me. This will
4 also give people in the audience a chance to see the
5 draft that was posted to the meeting materials just
6 ahead of the meeting today. I will add a link in the
7 meeting chat. And when we resume, we can begin the
8 discussion of your draft report to Congress.

9 HALEALOHA AYAU: Sounds good.

10 MELANIE O'BRIEN: Okay, so we will take a break
11 for 10 minutes.

12 HALEALOHA AYAU: All right.

13 **BREAK**

14 MELANIE O'BRIEN: Okay. If you could all please
15 return. Time is up.

16 **REPORT TO CONGRESS FOR FY 2023**

17 MELANIE O'BRIEN: The next item on the agenda is
18 a discussion of the report to Congress for fiscal
19 year 2023. The updated draft report to Congress was
20 included in the meeting materials just before the
21 meeting. I will turn the discussion of the report to
22 Congress over to the Committee.

23 HALEALOHA AYAU: Yes, thank you. Is Toby back?
24 Do we know?

25 Okay, let's proceed. I've asked Dr. McKeown if

1 he could - as the subcommittee lead, if he could
2 lead the discussion on our current draft of our FY
3 2023 report to Congress.

4 TIMOTHY MCKEOWN: Thank you, Mr. Chair. Given
5 that five of us on the subcommittee are overly
6 familiar with this draft and that Toby and Armand
7 are not, I recommend we wait a minute until they get
8 back because they're the ones I think that we need
9 to make sure - because they've not seen it before.
10 Is that fair?

11 HALEALOHA AYAU: Yes. And just by way of
12 background and the discussion leading up to the
13 agenda for this meeting, I initially asked - because
14 of the volume of information we were dealing with
15 and that we were still at the subcommittee level in
16 terms of preparing the report to Congress - that we
17 hold off on that until the November 30th meeting.
18 But we decided at the urging of the Park Service to
19 proceed with that discussion. But as a result of
20 that, the report was just we were not able to get
21 that current draft to the rest of the Committee,
22 which is Armand and Toby. Hence, Tim's comment.
23 Armand, what's Toby's status?

24 ARMAND MINTHORN: Say again?

25 HALEALOHA AYAU: Where's Toby? We're waiting for

1 him to continue the discussion since we're familiar
2 with the current draft, the subcommittee members,
3 but you two aren't. I wanted to make -

4 ARMAND MINTHORN: Toby had to step away for a
5 bit. He said he would be right back. So, we can
6 wait, or we can keep going ahead.

7 HALEALOHA AYAU: Being that the meeting is
8 recorded, I recommend that we proceed, and then we
9 can review those sections of the discussion that he
10 missed. Is everyone comfortable with that?

11 Okay. Tim, if you could proceed.

12 TIMOTHY MCKEOWN: Okay. Since the five of us are
13 very familiar with the document and you are not,
14 Armand, because you have - this is the first you've
15 seen it, how would you like to proceed in reviewing
16 the document? We can read it word for word. We can
17 do whatever you're comfortable with. Armand?

18 ARMAND MINTHORN: Well, Tim - Mr. Chair?

19 HALEALOHA AYAU: Yes, Armand.

20 ARMAND MINTHORN: Maybe Tim, it would be, I
21 guess, worthwhile to know what changes have been
22 made to the current report.

23 TIMOTHY MCKEOWN: I can do that, sure.

24 ARMAND MINTHORN: I don't know if that's large
25 or small, but if there's changes, maybe that would

1 be a starting point.

2 TIMOTHY MCKEOWN: Okay, fair enough. Let me
3 start then by saying that we - at the Bloomington
4 meeting, we had requested a number of different
5 types of information from various parties to sort of
6 help us with this process. And in the meeting
7 materials, there's a number of documents that are
8 posted there, one under report to Congress FY 2023
9 folder RC Requests for Invited Institutions. And we
10 got written responses from the U.S. Fish and
11 Wildlife Service, from the Forest Service, from
12 Indiana University, from the Field Museum, from the
13 Bureau of Reclamation, from the University of
14 Missouri, and from the Army Corps of Engineers. So,
15 those materials are all there, and we had looked
16 through those as we were doing this draft, revised
17 draft.

18 We had also asked at Bloomington for copies of
19 the responses that five institutions had sent at the
20 request of the Senate Committee of Indian Affairs.
21 Those documents are also there; from the University
22 of California, Berkeley - I'm just going down the
23 list here - from Ohio Historical Connection, from
24 Indiana University, from Illinois State Museum, and
25 from Harvard. So, those materials are all there, as

1 well.

2 HALEALOHA AYAU: And Berkeley.

3 TIMOTHY MCKEOWN: Yes, Berkeley, sorry. Those
4 are all very interesting datasets, I think, for us,
5 very useful data sets.

6 And there was one piece that actually will not
7 be addressed until next meeting, a presentation, but
8 the documents were posted and at least one of the
9 documents occurred before the end of the fiscal
10 year. And that's the announcement by the Department
11 of this deadline in terms of all DOI bureaus
12 completing Notices of Inventory Completion. So, I
13 think we sort of figured that that was fair game for
14 us since part of it at least happened before the end
15 of the year. So, we put that in there, as well.

16 So, turning to the document itself, as I
17 indicated at our last meeting, I took a first crack
18 at doing a revised draft. I started with the one
19 that we did for FY 2022. So, there's a lot of the
20 sections here that are pretty close to identical or
21 with some small changes. The executive summary, with
22 a couple of small tinkering to the numbering, later
23 on is pretty much identical to what we did last
24 time.

25 The summary of activities, the Review Committee

1 members, we changed those and put the appropriate
2 appointment or end of their appointment dates. The
3 Review Committee meetings, I tried to do a summary
4 of what happened at each of the meetings. I used
5 both the summary of the meeting, as well as the
6 transcripts to get that detail.

7 Progress made, this is pretty much starting
8 from scratch, and it was based largely on the
9 materials that the museums and Tribes gave us at the
10 meetings, plus a review of the transcript. So, I
11 think let's start there in terms of new text.

12 So, for progress made, the first one was
13 publication of the proposed revision of the
14 regulations implementing NAGPRA, on October 18th,
15 2022. I indicated that there was a 90-day comment
16 period that was later extended to January 31st, and
17 that there were 181 public comments, and that the
18 Review Committee commented on January the 10th of
19 2023, pages of comments. Any questions on that?

20 Hearing none. Number two, cooperation and
21 collaboration with Tribes and museums carrying out
22 NAGPRA implementation. I largely focused these on
23 the presentations that we received from Indiana
24 University, Vassar, Colorado Springs Fine Arts,
25 Detroit Institute of Art, the Witte Museum. All of

1 those were in collaboration and co-presented by
2 Tribal representatives, so I think that that was
3 good evidence that we personally had seen of
4 cooperation and collaboration.

5 Number three, we put in a section here on the
6 press coverage, which I think has been phenomenal in
7 the last year, largely driven by the efforts of
8 ProPublica to come up with a very user-friendly
9 database of the same data that the Park Service
10 provides, so it's very accurate. I think it's got
11 some bells and whistles on the presentation that are
12 very useful. Secondly, there was another series that
13 was run by the Washington Post that specifically
14 focused on the Smithsonian, which I think is of
15 interest to us.

16 Four, this was a late edition, and it relates
17 to those documents that appeared in our meeting
18 materials for the presentation that will actually
19 happen at the end of the month. But it's about the
20 Department of the Interior establishing
21 administrative deadlines for all bureaus to complete
22 Notice of Inventory Completion by April the 20th
23 unless additional time is requested by Indian
24 Tribes, and I think that's pretty significant.

25 Number five was the - I think last year we had

1 talked about the impending consideration of the
2 Safeguard Tribal Objects of Patrimony Act. In
3 December, that act was actually passed, so I put the
4 information in there. And just as a reminder, this
5 Review Committee is mentioned in that statute as
6 having sort of an advisory role if asked. So, I put
7 that in as a good thing.

8 And lastly, number six was introduction of
9 another bill dealing with Federal Indian Boarding
10 Schools that we had commented on the general effort
11 that the Secretary had initially started, but now
12 this has resulted in introduction of legislation.

13 Questions on the progress made?

14 Does that sound reasonable, Armand?

15 ARMAND MINTHORN: Reasonable.

16 TIMOTHY MCKEOWN: Okay. Then we got to the
17 barriers to overcome. A lot of these sections, I
18 think we had had in the earlier ones. I changed some
19 of the language around a little bit or added stuff.

20 The continued resistance of some institutions.
21 The Miami Tribe had identified some. There were a
22 number of other Tribes that had mentioned things to
23 us. That there were 13 allegations of failure to
24 comply that the Park Service reported to have
25 received this year. That I think we have heard that

1 there are some states that insist on relying solely
2 on state burial law regarding disposition of Native
3 American human remains when NAGPRA also applies. And
4 then, we highlighted this issue of the Army War
5 College at Carlisle, where the Army insists on not
6 complying with NAGPRA for the intentional excavation
7 of Native American human remains on Army land as a
8 barrier.

9 Sometime near the end of the year, there was -
10 the Government Accountability Office issued I think
11 what they call a SNAP report, which is sort of an
12 update on all the things they've previously done.
13 And one of the things that they included in there is
14 that they've made 55 recommendations to Federal
15 agencies to improve implementation of NAGPRA in a
16 variety of different reports. And they indicated
17 that there were, I think it's one, I can't remember
18 how many it is, one, two, three, four, five, six,
19 seven, eight. I think they indicated that there were
20 nine recommendations that at that point had not been
21 addressed by the agencies. And they didn't specify
22 what they were, so I called them, and they told me
23 what they were. This text is actually pretty close
24 to what the actual recommendations are that GAO
25 included in their report but have not been

1 addressed. There was one that I did not include and
2 that was about one agency and how they deal in
3 Alaska with Alaska Native corporations. And I think
4 that that's an issue that GAO has already addressed
5 on NAGPRA. Initially, the regulations included
6 Alaska Native corporations as having standing to
7 make claims, and GAO looked at that and found that
8 there was no basis in that in the statute, so that
9 was removed. So, I didn't think we needed to raise
10 that issue again, but all of these other ones are
11 from the GAO report.

12 Conflicting estimates of cost of repatriation.
13 We had raised that last year because the Department
14 in proposing the proposed rule had indicated a
15 certain amount, but that we were hearing from other
16 sources that it was much, much more than that. And
17 that's why we asked for the additional information.
18 So, when we get to the later part of the report,
19 I've included some of that information that we've
20 received about what the amount of money is.

21 Sensitive information currently unprotected.
22 This I think is pretty close to what we had put in
23 last time.

24 Staff support. I think this is from the last
25 report, as well.

1 Native Hawaiian Organizations. This is a new
2 section that dovetails with some recommendations we
3 made last time. But I had heard from readers of the
4 report that they thought it should be identified as
5 a barrier, so I asked Halealoha to come up with some
6 text to put in this spot.

7 Question on the barriers?

8 Onward to recommendations. Many of these are
9 very similar to ones that we did last time. Shifting
10 the definition of sacred object or modifying it to
11 include traditional Native religion or family
12 spiritual practices as an additional piece of text
13 there.

14 Revising the definition of Native American to
15 mean of, or related to, a Tribe, people or culture
16 that is or was indigenous to any geographical area
17 that is now located within the boundaries of the
18 United States. That relates to a court case that I
19 believe Armand and Toby are very familiar with.

20 Hui Malama, C, that was basically, since Hui
21 Malama is no longer in existence but now has an
22 organization that is sort of heir to that, it's
23 basically to take Hui Malama out of the statutory
24 text and to include - replace it with Hui Iwi
25 Kuamo'o. Sorry, if I butchered that, Eddie. There

1 was a change, sort of, to implement that in terms of
2 the definition of Native Hawaiian organization,
3 which would remove Hui Malama I Na Kupuna O Hawai'i
4 Nei and include Hui Iwi Kuamo'o and to also include
5 a piece of a provision that says it does not include
6 any museum or agency or subdivision of the State of
7 Hawaii or the United States. This has to do with
8 historical things that have happened. I'll just
9 leave it at that.

10 Right of possession. This is an issue to sort
11 of clarify it, how it applies to unassociated
12 funerary objects. This is from the last one, as
13 well.

14 The Ownership Section, number two. One was an
15 amendment to the definition of how aboriginal land
16 is determined. And the current one says that it
17 needs to be based on a final judgment of the Indian
18 Claims Commission or the United States Court of
19 Claims as aboriginal land of an Indian Tribe. And we
20 had recommended last time that that also include
21 treaties, Acts of Congress, and Executive Orders to
22 bring it in line with what this Committee has
23 recommended in the past on disposition of culturally
24 unidentifiable remains. And I think this would
25 obviate the need for the proposed regulation text

1 between adjudicated Aboriginal land and acknowledged
2 Aboriginal land. I think those are the terms that
3 are in there. It would just make them both the same,
4 which I think would be useful.

5 We had asked last time for the Government
6 Accountability Office to complete an evaluation of
7 Federal agency compliance with the excavation and
8 discovery provisions of the statute. And there were
9 a number of different things that we had mentioned
10 there that were of concern to us.

11 Under repatriation of Federal agency and museum
12 collections, one of the provisions, and it's sort of
13 a - under the current statute and the - under the
14 statute, the museums were required to determine the
15 culturally affiliated human remains and associated
16 funerary objects and to come up with a list of
17 culturally unidentifiable human remains, and that
18 would be referred to the Review Committee for
19 recommendation of what that disposition would be.
20 And back in 2010, we did that - or no, 2000
21 actually, I think the Review Committee did that,
22 made a recommendation that became the basis of
23 regulatory provisions in Section 10.11. But one of
24 the odd things about the statute is it authorizes or
25 directs the Review Committee to make recommendations

1 on the disposition of culturally unidentifiable
2 human remains, but it doesn't direct the Committee
3 to make that recommendation for associated funerary
4 objects, which I think all of us would agree those
5 should go together, but that's not what Congress
6 said. So, to go that extra step is contrary to what
7 they said to us. So, I think it would be useful to
8 go back and to change the statute to address that
9 issue once and for all.

10 Civil penalties. This is the part where we had
11 asked for additional information, which hopefully
12 will be forthcoming. But as it stands, we had used,
13 this is based on the data that was included in last
14 year's report, which was from the Program report for
15 2022.

16 Grants funding. This basically was looking at
17 the whole issue of what's this really going to cost
18 and the confusion over the Department coming up with
19 estimates of the cost, which seemed to be much lower
20 than what we were hearing from museums. And last
21 year, we had asked the Government Accountability
22 Office to basically look into it, to come up with
23 real numbers that everybody would agree on. There's
24 a chart in there that, sort of, shows how grants
25 funding has been distributed over the last 29 years,

1 I guess. And then after that, on the next page,
2 these are all bullet points from museums or Federal
3 agencies that gave us real numbers of what it's
4 costing them to implement, which are some pretty
5 large numbers.

6 There's also an issue here that some Tribes
7 have indicated that museums may be using grant
8 funding for things that are outside of the purview
9 of the statute, so that's another thing that I think
10 we would want the GAO to look at. So, we would ask
11 for a comprehensive evaluation of the grants program
12 and to compile data from Tribes, Native Hawaiian
13 organizations, museums, and Federal agencies to get
14 a realistic estimate of the actual costs.

15 Native Hawaiian traditional religious leaders
16 The statute in terms of membership says that three
17 of the members shall be appointed by the Secretary
18 from nominations submitted by Indian Tribes, Native
19 Hawaiian organizations, and traditional Native
20 American religious leaders with at least two of such
21 persons being traditional Indian religious leaders.
22 Historically, back in the day, that was generally
23 interpreted to mean both Native Hawaiian and Indian
24 Tribe religious leaders. My understanding is that,
25 more recently, that is not the way it's been

1 interpreted. So, this would try to fix that so that
2 Native Hawaiian religious leaders could be nominated
3 to those positions.

4 Trafficking. I updated the chart that we had
5 last year to include information from the Executive
6 Office of U.S. Attorneys that looks at all of the
7 convictions and all of the declinations over time.
8 There's 127 cases that have been considered over
9 that period. As a solution to, sort of, help deal
10 with that, we recommended that three - and this also
11 ties into the whole passage of the STOP Act, which
12 is related to this, as well, that we recommended
13 that Congress appropriate the 3 million dollars that
14 was included in the budget office recommendation and
15 evaluation for the STOP Act, that they revise the
16 definition of Native American, which has an
17 implication - a chilling effect on prosecution of
18 these cases.

19 We had proposed an amendment that basically
20 would remove the B part of the statute that requires
21 that the Government show beyond a reasonable doubt
22 that the object was obtained in violation of the
23 statute and instead add other cultural objects to
24 the first part that basically ties it only to "were
25 obtained without right of possession." So, it would

1 make it simpler, broader, easier to prove.

2 And then fourth, last year we had asked for
3 additional appropriation for establishment of - back
4 in the day it was called the ARPA Task Force, but an
5 inter-agency task force to focus on these issues.
6 We've included that here, as well. But the second
7 piece was new, which was recommended to me by an
8 assistant U.S. attorney, was to actually have an
9 office in the main Justice Department, and that
10 would probably be in the Environmental Crime
11 Section, that would have jurisdiction at the
12 Washington level to coordinate these things. Right
13 now, most of these cases are being picked up by U.S.
14 attorneys out in their various jurisdictions with
15 very little coordination amongst them. So, having an
16 oversight organization, I think, would be a good
17 addition to help with this.

18 And then the other piece to that is one of the
19 GAO recommendations that was not dealt with was they
20 had asked the Park Service and the BIA to, sort of,
21 provide information to the Departmental Consulting
22 Archeologist on violations of ARPA, NAGPRA, and the
23 Antiquities Act, and those had not been addressed.
24 So, in thinking about this, the idea was that
25 instead of forcing the DCA to do this, which

1 apparently there's not much interest in doing that,
2 in responding to GAO on that, that basically they
3 would set up a new office or have this go with a DOJ
4 office that would require submission of that
5 information to DOJ and would help them coordinate
6 these activities.

7 Eight, exemption from disclosure of culturally
8 sensitive information. This was from last time. I
9 think we're all concerned about the various types of
10 information that can be obtained and how to protect
11 that.

12 We had talked last time about administrative
13 placement of NAGPRA implementation to the Assistant
14 Secretary for Indian Affairs Office, and that's
15 largely the same text of what we did last time.

16 On NMAI Act, I think last time we had
17 recommended inclusion in the statute of a cause of
18 action that would allow a Tribe or other party that
19 was unhappy with the way the Smithsonian had dealt
20 with a repatriation case, it would provide them
21 access to Federal district court. We had put that in
22 last time. Particularly in discussing this issue
23 with a number of people that were involved in the
24 Washington Post story on the Smithsonian, I pulled
25 down their statute and basically tried to make their

1 repatriation requirements as close to NAGPRA as I
2 could. So, it would require notices. There would be
3 deadlines for them to determine cultural
4 affiliation, which are not in their statute as it
5 stands.

6 Report to Congress. I think there was a
7 discussion last time about whether making
8 recommendations on the Smithsonian or other
9 excavations and discoveries were within our
10 jurisdiction. And so, we had recommended that
11 Congress amend the statute to make it absolutely
12 clear that it's part of our jurisdiction.

13 And then the last one was on reburials on
14 national parks and other federally owned land. And
15 there's a set of provisions that would basically
16 amend statutes to authorize reburial on those lands.

17 Going to the second part, which is, sort of,
18 the statistical - the Program statistics, Melanie
19 was very helpful in providing with that. I think we
20 had had some issues about some of the language in
21 the second block there that sort of implied that
22 things had actually been repatriated, but we didn't
23 know that for a fact. So, I've changed that language
24 here to just say, "completed the NAGPRA process,"
25 leaving it at that.

1 One thing that I noticed, Melanie, in looking
2 at the document you sent us, the number in the first
3 block for "more NAGPRA work needed," there was a
4 different number there. I went and looked at Tableau
5 and this 102,708 seems to be the number in Tableau.
6 I'm not quite sure where that other number came
7 from, but that's something that I'd appreciate if
8 you'd look at.

9 The rest of it, I didn't touch.

10 Questions, Armand, Toby?

11 ARMAND MINTHORN: Thank you, Tim.

12 I guess, first, it would be great if this
13 report can be finalized. But it's very clear, Tim,
14 that there are institutes, and agencies, museums,
15 and universities that are totally and blatantly
16 ignoring the Government Accountability Office
17 recommendation, and that's a problem. It would be a
18 suggestion, Tim, that this report highlight for the
19 GAO, highlight for the National Park Service,
20 highlight for Department of Interior, museums, and
21 universities, then you'd pay attention to this
22 report.

23 But also, Tim, now we have allies that are in
24 DC. Do we need to, again, identify a champion to
25 help us and note this report to? There's the Native

1 American Caucus. They need to become aware but also
2 educated, so that they can help us.

3 But overall, Tim, this is a good report. Again,
4 Tim, there are some glaring flat-out blatant not
5 compliance with NAGPRA. And Melanie's office has
6 received numerous complaints, and she'll continue to
7 get numerous complaints. And these complaints not
8 only slow down repatriation it slows down working
9 with repatriation. And the bottom line, Tim, is that
10 Tribes can't get back their ancestors.

11 So, the head of National Park Service, the head
12 of Interior, Secretary Haaland, specifically needs
13 to - individuals, if they become aware, and they're
14 given the right information, they can make other
15 people aware. This is what I know. A lot of times
16 that's all it takes.

17 So, just these comments, Tim. Again, the GAO,
18 Park Service, Interior, museums, universities, even
19 Federal agencies that are flat-out ignoring NAGPRA.
20 So, that's all the comments, Tim.

21 TOBY PATRICK: For me, I just had one comment
22 about that, about the negative information
23 implementation responsibility. It's almost like a -
24 I believe it's Article 6 for the June 9th, 1855
25 Treaty, supreme law of the land, and it stands next

1 to trust responsibility for our Government and being
2 able to work with the Tribes and being able to keep
3 up on their end, that trust responsibility. Other
4 than that, that's all I have. Thank you.

5 HALEALOHA AYAU: I have a follow-up comment to
6 that actually. It's found in the accompanying
7 memorandum from Harvard University, from the
8 Peabody. It's on page two, and I was hoping,
9 Melanie, if you could give us some background and
10 clarification on this. The writer's referring to -
11 it says, Through historic treaties, maps, and royal
12 charters to determine which are authoritative
13 Government documents, that can properly identify
14 Tribal lands under the Act. It's a complicated task
15 for Peabody staff, and Tribal nations alike.
16 National NAGPRA briefly maintained, but recently
17 removed, an online resource listing authoritative
18 Government documents that could be relied on in
19 making decisions to associate and return ancestors
20 and cultural items. This type of resource helped all
21 institutions implement the regulatory emphasis on
22 historical geographical territories that often
23 require consultations with multiple Tribal nations.

24 Could you give us some background on that and
25 whether there's any chance of that information can

1 be made available again, to help support the
2 consultation and ultimately the repatriation
3 process?

4 MELANIE O'BRIEN: Sure. I can give you
5 background on the resources that used to be
6 available on the National NAGPRA Program website.
7 There were a series of tables in Word that were
8 produced by the National NAGPRA Program that were
9 related to Royce Maps, maps that were produced in
10 1890 by Charles C. Royce as a part of the Bureau of
11 Ethnography at the Smithsonian. There are a number
12 of issues related to that dataset. There are issues
13 with the Royce Maps themselves produced in 1890.
14 There were issues with the Word tables that were
15 produced by the National NAGPRA Program, and there
16 were issues with the - there were issues with a lot
17 of things.

18 We engaged in an effort to try to resolve some
19 of those issues, and we were unable to do so in an
20 effective or efficient manner. And rather than put
21 any more resources, time, or effort into solving
22 what amounted to be potentially damaging
23 information, I made the decision to remove those
24 tables from our website, in favor of actually
25 encouraging museums to, first of all, consult with

1 Tribes about their treaties, which I felt was a
2 better resource than really a tertiary source, if
3 you think about it. The Royce tables as being a
4 secondary source, the treaty itself being the
5 primary source, the Word table produced by the
6 NAGPRA Program is a tertiary source, if you put it
7 in that perspective. Really a consultation with
8 Tribes about their treaties and their engagement
9 with the U.S. Government is the best place to get
10 that information. But in addition to that, there are
11 plenty of other sources for museums to acquire
12 information about treaties between the U.S.
13 Government and Tribes. Certainly, there are a number
14 of historians, a lot of them at Harvard, that have
15 spent their careers studying treaties between the
16 United States and Indian Tribes. I don't think that
17 Word tables on the National Park Service NAGPRA
18 website was the best source of that information.

19 So, those were my reasons for removing that
20 information. Since then, I will say that there have
21 been renewed efforts in producing additional
22 resources related to treaties, and those have come
23 from a lot of different sources. The National
24 Archives engaged in an effort to digitize original
25 treaty text over the last several years. In addition

1 to that, the U.S. Department of Agriculture, along
2 with the Department of the Interior, has been
3 engaged in an effort, just over the last year, with
4 the University of Oklahoma, related to Kappler's
5 version of the treaties, Charles Kappler's version
6 of the treaties. You can find links to all of that
7 on our website, so there's resources there. Again,
8 there's plenty of resources out there. Ours was not
9 the only one certainly, and it certainly was not the
10 best.

11 HALEALOHA AYAU: Thank you for that. I was just
12 concerned that that may have been an administrative
13 cost-cutting measure for -

14 MELANIE O'BRIEN: No, it was a potentially bad
15 data measure.

16 HALEALOHA AYAU: Thank you for the (inaudible
17 comment).

18 All right, members, other questions?

19 Oh, Tim.

20 TIMOTHY MCKEOWN: Just to remind everybody,
21 we've actually gone on record about this, and this
22 is in our comments - the Review Committee's comments
23 on the proposed rule. This Committee had recommended
24 one way to minimize the burden of the collection of
25 information would be for the Department of the

1 Interior, in consultation with Indian Tribes, to
2 prepare a single online source that will identify
3 which Tribes are geographically affiliated with
4 specific locations. The Department of the Interior
5 is the most logical place for the source to be
6 located because of the Secretary's responsibility
7 for both implementing NAGPRA and ensuring the
8 Government's trust responsibilities to Indian
9 Tribes.

10 I don't want to bash Melanie, in terms of
11 pulling that down, because the dataset was what the
12 dataset was, but I do think that the idea of a
13 single definitive source, hosted by the Department
14 of the Interior, in consultation with the Tribes, is
15 probably the way to go.

16 ARMAND MINTHORN: Tim? I guess, again, the five
17 entities I cited earlier, and the total ignorance by
18 the entities to comply with NAGPRA, this report
19 needs to help us with those entities understanding
20 that the law is the law, and it can't be ignored.
21 So, that is a comment.

22 And a question for Melanie, because these
23 entities, museums, universities, Federal agencies,
24 blatantly ignore and not comply with NAGPRA law, so
25 the question, Melanie, is legally - is there options

1 that can be considered, legally?

2 MELANIE O'BRIEN: Well, certainly there are
3 options for making allegations of failure to comply
4 in the civil penalty process under NAGPRA. There are
5 limitations to that process, first and foremost,
6 identifying the specific failure to comply. We often
7 see that that can be an issue under the existing
8 regulations, where a museum, for example, may have
9 completed an inventory and is consulting with a
10 Tribe but has not, for some reason, published a
11 notice. There may not be a very clear failure to
12 comply there, and it may be difficult to find that
13 failure. So, in some ways there are limitations
14 there.

15 Of course, there are other avenues for legal
16 remedies, outside of a civil penalty process,
17 through other legal actions that a Tribe may wish to
18 engage in through a court. But I will add that it is
19 certainly the Department's hope that changes to the
20 regulations will improve the process for museums,
21 and certainly to hold museums accountable to a
22 process, and to ensure that there are timelines and
23 clear instructions for completing this work. That is
24 the goal of the revisions to these regulations.

25 ARMAND MINTHORN: Thank you, Melanie. That's

1 all.

2 HALEALOHA AYAU: So, members, now that we've all
3 had a chance to review the report, the draft report,
4 are we - let's take a temperature check. Are we
5 prepared to move forward with it, or should we wait
6 to the November 30th meeting?

7 ARMAND MINTHORN: Mr. Chair?

8 HALEALOHA AYAU: Yes, Armand.

9 ARMAND MINTHORN: I'm ready to move forward with
10 it, but again, can we decide that there needs to be
11 highlights in this report to the GAO, to National
12 Park Service, Department of the Interior, and
13 museums and universities and Federal agencies that
14 do not comply with NAGPRA? Can we do that, Tim?

15 TIMOTHY MCKEOWN: Can you clarify what you mean
16 by highlights? What would we do to the report?

17 ARMAND MINTHORN: Well, the highlight would be
18 bring attention to, and these five entities that
19 cited, they need to pay attention to the highlights
20 of the report, so whether or not - that could be
21 done in a number of ways. But this report can do
22 that. It can bring attention to noncompliance and
23 who is noncompliant.

24 TIMOTHY MCKEOWN: Can I ask then, is it
25 necessarily a change to the text, or is it more

1 about the distribution?

2 ARMAND MINTHORN: Distribution.

3 TIMOTHY MCKEOWN: Okay. Easy enough to do.

4 ARMAND MINTHORN: Okay, thank you.

5 HALEALOHA AYAU: Then to clarify that the
6 information that we were waiting on, specifically
7 tables 2, 3, 4, and 5 regarding civil penalties,
8 that will be included in the APR report, correct,
9 Melanie? So, that would complete the information
10 that we're waiting on for the report, meaning it'll
11 be covered in - maybe not in our report, but it will
12 be in the Department's Program?

13 MELANIE O'BRIEN: Yes, that's correct. It will
14 be in the Department's - in the Program's report.

15 HALEALOHA AYAU: Okay. So, Tim, correct me if
16 I'm wrong, but that's the last of the information
17 that we are requesting for review.

18 MELANIE O'BRIEN: If I could?

19 HALEALOHA AYAU: Go ahead. Go ahead.

20 MELANIE O'BRIEN: Angela Garcia-Lewis was able
21 to provide a comment in the chat. I think she was
22 suggesting maybe some formatting changes might
23 provide the highlighting that Armand was requesting.

24 HALEALOHA AYAU: Tim?

25 TIMOTHY MCKEOWN: Okay. I'm just trying to

1 figure out logistically how to do this. If let's say
2 we vote to approve this, pending highlighting
3 formatting changes, can we authorize the Chair to
4 approve those, so that we don't have to come back
5 and do it?

6 HALEALOHA AYAU: Members?

7 DOMONIQUE DEBEAUBIEN: Are we able to approve
8 this report today, if it does still require those
9 minor edits, either removing that section on the
10 noncompliance or just editing it to reference the
11 other report?

12 MELANIE O'BRIEN: You can make nonsubstantive
13 edits. So, I would consider substantive edits to be
14 changes to your recommendations, changes to the
15 substance of the report. So, as long as what we're
16 talking about is formatting or other kinds of
17 nonsubstantive edits, that would be fine. You could
18 approve the report and then make those edits.

19 HALEALOHA AYAU: And I see in the comments,
20 Angela's response. Yes, that's fine.

21 **REVIEW COMMITTEE MOTION**

22 SHELBY TISDALE: Mr. Chair, I would like to go
23 ahead and move to approve the report to Congress,
24 with the possible just minor changes that we were
25 just discussing.

1 HALEALOHA AYAU: So moved. Is there a second?

2 ARMAND MINTHORN: Second.

3 HALEALOHA AYAU: That would be Armand.

4 Discussion, any further discussion, with the
5 understanding that formatting and nonsubstantive
6 edits will be -

7 TOBY PATRICK: Question?

8 HALEALOHA AYAU: I'm sorry, is that Toby or is
9 that Armand?

10 TOBY PATRICK: Yes, that was me.

11 HALEALOHA AYAU: Yes, Toby.

12 TOBY PATRICK: Yes, I want to move ahead with
13 the report along with the changes.

14 HALEALOHA AYAU: Thank you. Any further
15 discussion?

16 Having heard none, can we do a voice vote? All
17 in favor of adopting - of approving our FY 2023
18 report to Congress, please say aye.

19 TOBY PATRICK: Aye.

20 ARMAND MINTHORN: Aye.

21 TIMOTHY MCKEOWN: Aye.

22 DOMONIQUE DEBEAUBIEN: Aye.

23 HALEALOHA AYAU: Aye.

24 SHELBY TISDALE: Aye.

25 HALEALOHA AYAU: Any nays? Any abstentions?

1 Nothing?

2 MELANIE O'BRIEN: If I could just have Angela
3 confirm a yes vote in the chat -

4 HALEALOHA AYAU: Oh, right.

5 MELANIE O'BRIEN: - if she's able to do that at
6 some point? I'll just clarify for the record that
7 Toby and Armand both agreed. I didn't hear those
8 separately.

9 TOBY PATRICK: Yes.

10 ARMAND MINTHORN: Yes.

11 MELANIE O'BRIEN: Okay, then everybody has
12 agreed. I'll wait -

13 HALEALOHA AYAU: Angela, can hear us?

14 ANGELA GARCIA-LEWIS: I agree. I was having a
15 hard time unmuting in this version of the - I'm on
16 my iPhone. I'm normally on Android.

17 HALEALOHA AYAU: Thank you, Angela.

18 MELANIE O'BRIEN: Thank you. That takes care of
19 it for our recordkeeping then.

20 HALEALOHA AYAU: Is there any further steps we
21 need to take? We're good?

22 MELANIE O'BRIEN: Yes, that's fine.

23 HALEALOHA AYAU: All right. Thank you, Melanie.
24 The next section of the agenda?

25 MELANIE O'BRIEN: Yes.

1 TIMOTHY MCKEOWN: If I might, one of the issues
2 that in the past we have had concern about is the
3 amount of time it takes from our final report to
4 when the Department actually sends it to Congress
5 and what that list is going to be. I think it would
6 be useful if we could make sure that Melanie has the
7 final, final, final by the next meeting, and we can
8 discuss at that point the distribution part, which I
9 think we've spent a lot of time on. Armand has
10 raised some issues to make sure that people got
11 this.

12 HALEALOHA AYAU: Thank you. Agreed. Comments?

13 Melanie, that works in terms of process still?

14 MELANIE O'BRIEN: Yes. We can discuss
15 distribution at your next meeting.

16 HALEALOHA AYAU: Okay. Any further discussion on
17 the report to Congress?

18 None? Thank you, Armand and Toby. Thank you,
19 everyone, for the work that was done on this report
20 and getting it approved.

21 So, back to you, Melanie.

22 **PUBLIC COMMENT/WRITTEN COMMENT**

23 MELANIE O'BRIEN: Yes. The next item on the
24 agenda is time for public comment. At every meeting
25 of the Review Committee, there is an opportunity for

1 public comment, which is a requirement under FACA.
2 If you are interested in providing public comment,
3 you may do so by raising your hand through the Zoom
4 feature, or you can send a chat. I've just turned on
5 the chat feature to request to make a public
6 comment.

7 The Review Committee can also accept written
8 comment prior to a meeting or during a meeting,
9 although it can sometimes be a little difficult for
10 me to get a written comment during the meeting. It's
11 better to send those in prior to the meeting.

12 So, if anybody would like to provide a public
13 comment, you may do so by raising your hand using
14 the Zoom function, and I will allow you to speak. I
15 forgot to find the instructions for raising your
16 hand by phone. I think we have a couple of people
17 who have called in. Let me see if I can find that
18 really quickly, or you can submit your name in the
19 chat if you prefer that to raising a hand.

20 TOBY PATRICK: Mr. Chair?

21 HALEALOHA AYAU: Yes, Toby?

22 **REVIEW COMMITTEE COMMENT**

23 TOBY PATRICK: I would just like to say that I'm
24 thankful to be here on the Committee. This is my
25 first meeting. I worked 28 years with the Cultural

1 Resources Department here with the Confederated
2 Tribes of Umatilla. I had some dealings with NAGPRA,
3 ARPA, whatnot. But this right here gives me an
4 opportunity to truly see the extension of my work,
5 being out in the field. Now, you're coming in and
6 doing this part here like to close and protection
7 for what I've been finding out there in the field
8 and seeing this, the extension of it, of what
9 happens to those things after we find them in the
10 field. After we find them in the field, it comes
11 here to the Committee, maybe not all of them.

12 But I am really thankful to be on this
13 Committee, because listening to my big brother
14 Armand here and what he was saying, I had a lot of
15 questions my own self, but I just wanted to come in
16 and listen, pay attention, and see how things go.
17 One of the things that I heard was how out of
18 compliance it is with these departments that don't -
19 they just don't meet the requirements of the law. I
20 mean, simple - the simplicities of life they say is
21 - it's going to get pushed over to the side if
22 you're too nice or something or we don't have enough
23 funding or something. You know what I mean? It's
24 always something like that.

25 But what we're doing here, we're Native people

1 asking to take care of our loved ones. All we want
2 is a little respect from these other departments
3 that don't respect our lives, that don't see this,
4 that don't see the job that all of you guys are
5 doing, Melanie and your staff. What Armand said
6 earlier, I agree with, having good staff people do
7 the work that you're doing. That report that you
8 gave earlier, Melanie, it was - yes, I agree with
9 Armand, it was a really good report hearing all that
10 stuff.

11 But to me it's kind of hard when I hear that
12 the - and it's not just here in Oregon, it's all
13 over the United States where we're still
14 disrespected in a way, it's almost like I'm saying.
15 And that trust responsibility, I've been hearing a
16 lot about that, and since I've been on, because this
17 is my first term, my first term being on Tribal
18 Council, being a Tribal leader, I really enjoy it. I
19 enjoy being here. I know there's difficulties and
20 everything. Sometimes we have to say things that
21 ain't comfortable, but at the same time it comes
22 from your heart, and it means something. It has to
23 mean something to somebody. Somebody has to hear
24 that.

25 We don't - we want to advance as Indian people,

1 but there's a way that we are, and we will always
2 remain to be that. We're not trying to change
3 anything of who we are. We just want to be respected
4 by those outside agents. I guess, that's what I'm
5 saying. That's my frustration, hearing that
6 noncompliance - does not meet the law, just not come
7 onboard with this. I just wanted to make that
8 comment. I'm really thankful for all of you that's
9 on the Committee. My first time getting to see - I
10 see a bunch of names, now I've got to put the faces
11 to those names, and I'm really thankful for that, so
12 thank you.

13 HALEALOHA AYAU: Thank you. Thank you for those
14 powerful words, and welcome to the Committee.

15 MELANIE O'BRIEN: Yes, thank you very much,
16 Toby. It is a little difficult to start your first
17 meeting virtually, and I apologize that it wasn't
18 quite the welcome that we would have if we were able
19 to do this in person. So, thank you for those
20 comments.

21 At this time, we don't have anyone with a hand
22 raised. If you have called in and you would like to
23 make a public comment, you may do so by pressing
24 "*" to raise your hand from the phone. I did find
25 the instructions. Otherwise, if you're joining us by

1 computer, you can type in the chat or you can raise
2 your hand using the Zoom feature.

3 As Armand likes to remind everyone, this is
4 your time. This is your opportunity to speak to the
5 Committee. This is your chance to share with the
6 Committee your experiences in NAGPRA.

7 Could someone please raise their hand, so I can
8 make sure it's actually working? Okay. All right.
9 Now, lower your hand unless you want to actually
10 make a comment. All right. It was working.

11 All right. I do see a hand raise. Sarah, if
12 you'd like to make a comment, I can unmute you.
13 Sarah Childers, you can unmute.

14 **SARAH CHILDERS**

15 SARAH CHILDERS: Hello, can everyone hear me?

16 MELANIE O'BRIEN: Hello. Yes.

17 SARAH CHILDERS: Hello. I'm the Assistant THPO
18 here at the Flandreau Santee Sioux Tribe. Thank you,
19 everyone, and thank you for all the work you do. I'm
20 seeing a lot of improvement over the past several
21 years in notices and how fast they get them out from
22 the museums.

23 Again, I think you addressed the Smithsonian,
24 but I'd like more push, I think, from the Department
25 of the Interior to the Smithsonian on releasing the

1 items that came from the punitive campaigns against
2 the Native Americans that went to the - was it the
3 war museum or the medical war museums? We have been
4 told for decades that those are off limits, that
5 those are not up for repatriation. I don't know why.
6 So, I guess we need some clarification from the
7 Smithsonian on why those are being held still and
8 haven't been up as part of NAGPRA. That's been a
9 pretty strong one, and with all the Oceti Sakowin,
10 we have quite a few remains in those collections.
11 So, if museums have to give back the war items and
12 those war booty items from those punitive campaigns,
13 why isn't the Smithsonian held the same way with the
14 actual human remains. And those associated items are
15 being repatriated by other museums.

16 So, the other thing was with the Forest
17 Service, if they can give us an idea of places for
18 repatriation, specifically, I think the Black Hills
19 is what we're looking for, to find a location for a
20 lot of these unaffiliated remains.

21 And I think that was our only two comments from
22 the office for now. Thank you very, very much.

23 MELANIE O'BRIEN: Thank you, Sarah, for your
24 comments.

25 TIMOTHY MCKEOWN: Thanks, Sarah. This is Tim. I

1 just got a text from Halealoha that he's just lost
2 power, so he's offline. Well, I guess I'm chair. I
3 guess that's why you have a vice chair.

4 Okay. More questions, more comments from - oh,
5 he's back.

6 HALEALOHA AYAU: All right. Lost power. What did
7 I miss?

8 TIMOTHY MCKEOWN: I just seized control, but now
9 I'm ceding it back.

10 HALEALOHA AYAU: Are there any additional
11 comments or questions?

12 **JACK OMELAK**

13 MELANIE O'BRIEN: We have one question in the
14 chat which I will read out, but I might need to call
15 on Stephen to answer. The question is how the recent
16 redefining of Alaska regional entities under the
17 CARES Act has changed or affected NAGPRA?

18 STEPHEN SIMPSON: The commenter is referring to
19 the litigation concerning the definition of Indian
20 Tribe under the CARES Act. When Congress passed
21 that, they used the definition from the Indian Self-
22 Determination and Education Assistance Act, which
23 includes Alaskan Native corporations. When Congress
24 passed NAGPRA, they specifically and intentionally
25 excluded Alaska Native corporations, and so since

1 the corporations are not a Tribe under NAGPRA, the
2 CARES Act decision from the Supreme Court had no
3 effect on the implementation of NAGPRA at all.

4 MELANIE O'BRIEN: Thank you, Stephen. Are there
5 any other public comments? You can raise your hand,
6 or you can make a post in the chat.

7 **DILLON DOBSON**

8 MELANIE O'BRIEN: Okay, we have a comment in the
9 chat that I will read out.

10 It seems the pace on notices and repatriations
11 have been moving in a good way. However, that's been
12 true based on the current speed at which
13 institutions are offering access to their
14 collections. As Armand and Toby noted eloquently,
15 those institutions are withholding mountains of
16 information on collections. My question is how ready
17 we are and how we can use this report to push for
18 the administrative and bureaucratic changes, not
19 only to improve their compliance to meet current
20 regulatory standards but also the upcoming
21 regulations. Ostensibly, there will be more notices,
22 repatriations, requests, et cetera. How will we be
23 ready for that?

24 HALEALOHA AYAU: My comment would be - I'm not
25 sure if I would be answering it directly, but one

1 important way to improve that ability for
2 repatriations to occur is the section of the report
3 that identify - where institutions identified their
4 costs, their staff costs and costs to comply, and to
5 expedite NAGPRA repatriation. I cannot emphasize
6 more the need. That's why I asked the question early
7 on, what can be done to advocate for the Department
8 to increase its ask from Congress for agencies and
9 federally funded museums to carry out - especially
10 the ones with the large collections, to carry out
11 the important consultations and move those
12 repatriations along. We've been hearing this theme
13 of lack of resources for a long time, so if our
14 report can help move the bar, increase that amount,
15 then I think that would be one effective way to be
16 able to do so.

17 And I wanted to thank Tim and the subcommittee
18 for all their work in requesting that information in
19 Indiana and culling that information and
20 incorporating it into our report.

21 Any other comments, members or Melanie?

22 I'm sorry, Tim, do you have a comment?

23 **REVIEW COMMITTEE COMMENT**

24 TIMOTHY MCKEOWN: I didn't want to disrupt the
25 public stuff. I have kind of a different issue. As

1 you probably realize, I'm an old, retired guy, so I
2 spend much of my time looking at *Federal Register*
3 notices. And one of the notices that I commented on
4 at the Bloomington meeting was related to the
5 Tennessee Valley Authority, and I raised some issues
6 about it, but I wanted to point out that in the
7 public comment section, there's actually a letter
8 that followed up, I think, on what I said and did it
9 in a much clearer way than I ever did. So, I just
10 want to thank them for highlighting that issue.

11 I do have - on another notice that I've seen
12 recently, I actually have a question for Brady and
13 Stephen, if I could. This relates to a notice that
14 was published recently by a museum in California,
15 and it relates to culturally unidentifiable remains.
16 And in terms of determining aboriginal land,
17 aboriginal territory, they've relied on three
18 sources. Two of them, Treaty E and Treaty M, are the
19 unratified treaties that were done in California
20 that were sent to the President, but never affirmed
21 by the Senate. And I kind of looked back at the way
22 the current regulations read that says that they
23 have to be from the Indian Claims Commission, Court
24 of Claims, treaty, act of Congress, or Executive
25 Order. That's the current language. But I know that

1 the proposed rule has broadened that to include a
2 treaty sent to the President of the United States
3 for ratification. I think these two treaties were
4 indeed sent to the President for ratification. I
5 guess one question to you is whether the current
6 regulatory text is sufficient to give those two
7 documents authoritative - to make them authoritative
8 documents?

9 BRADY BLASCO: I'd actually recommend that this
10 question start with Melanie and along the lines of
11 advice that is given as technical assistance by the
12 National NAGPRA Program. So, before looping in the
13 Solicitor's Office, I think it's a good place to
14 start with the Program.

15 Melanie, you okay with that?

16 MELANIE O'BRIEN: Yes, absolutely. Sure. When it
17 comes to aboriginal land in California, our advice
18 is that the unratified treaties in California are
19 part and parcel of the later Court of Claims
20 decision, as well as the Indian Claims Commission
21 decisions, and so, are therefore authoritative
22 governmental sources.

23 TIMOTHY MCKEOWN: That's excellent. I've long
24 been a proponent of that interpretation, so
25 excellent. In reading that notice, I noticed that

1 there is a third authority, which is the California
2 Native American Heritage Commission Native American
3 contact list, which is not a Federal document. That
4 one makes me a little uncomfortable, you citing it
5 as an authority for making those decisions. Would
6 that be consistent with your thoughts, as well, or
7 not?

8 MELANIE O'BRIEN: Well, that would be the museum
9 that cited that as the authority for their
10 determinations, and I would say that it met the
11 requirements of the National NAGRPA Program for us
12 to publish the notice. And -

13 TIMOTHY MCKEOWN: So, you don't - sorry.

14 MELANIE O'BRIEN: - that I understand your
15 concern and I would have concerns about that
16 authority on its own, but coupled with the treaties,
17 it was sufficient to meet our requirements for
18 publication.

19 TIMOTHY MCKEOWN: Okay, thank you.

20 BRADY BLASCO: I'll add one point from a legal
21 perspective that I know many folks in different
22 states are often trying to balance the requirements
23 of both Federal and state requirements, and to the
24 extent the Department can be flexible in helping
25 people move towards repatriation and addressing both

1 those Federal and state requirements at the same
2 time, the Department wants to do that and wants to
3 be helpful. So, to Melanie's point, while a notice -
4 the review for the Department here is whether the
5 notice is sufficient and contains the information
6 that it needs to be sufficient. There are times when
7 there might be other inclusions in a notice at the
8 choice of a museum to help address its other
9 obligations or provide notice of its compliance with
10 other state laws that are outside the scope of
11 National NAGPRA's purview.

12 TIMOTHY MCKEOWN: I guess my recommendation is
13 to keep the notices clean and to - obviously, in
14 California they have two sets of responsibilities,
15 one under state law, one under Federal law. And when
16 you acknowledge the state law provisions in the
17 Federal one, it muddies things up.

18 BRADY BLASCO: Thank you.

19 TIMOTHY MCKEOWN: Which is a segue into my
20 thought that we should have a meeting in California.

21 HALEALOHA AYAU: I guess at some point we need
22 to discuss what our preferred venue would be for the
23 next in-person Review Committee meeting and be
24 prepared to make recommendations to Melanie about
25 that.

1 MELANIE O'BRIEN: We have those recommendations
2 from your last discussion, so we're prepared and
3 have been moving forward with those plans.

4 I just want to circle back because we did not
5 effectively close our public comment period, and I
6 want to be sure that there's no one else who wished
7 to make a public comment. This is another
8 opportunity to raise your hand or put your name in
9 the chat.

10 Mr. Chair. I do not see any other comments -
11 oh, I do see a question. There's a question in the
12 chat. It's a bit of a challenge here in that public
13 comments are a little difficult to manage. They
14 really shouldn't be anonymous, and I've been
15 treating them as such, and I am going to continue
16 this way, but I need to manage this differently.
17 We'll be sure to post this. We'll need to identify -
18 Lesa, we're going to have to figure this out because
19 this is not working.

20 Yes. Actually, Wendy, if you wouldn't mind, I
21 would be happy to unmute you so you can ask. That
22 would be best.

23 **WENDY TEETER**

24 WENDY TEETER: Yeah, I didn't have a problem
25 with that, and it might make it easier. So, I

1 noticed -

2 MELANIE O'BRIEN: If you could please identify
3 yourself.

4 WENDY TEETER: Oh, I'm sorry. I'm Wendy Teeter,
5 retired curator of archeology for the Fowler Museum
6 and Cultural Resource Archeologist for Santa Ynez
7 Band of Chumash Indians. One of the most problem or
8 difficult issues is having to deal with Federal
9 collections in universities and the different levels
10 of requirements that each different Federal agency
11 wanted to establish that this was a collection that
12 was in their control. And there was only one Federal
13 agency that had not done any due diligence in
14 reporting their collections at UCLA and that was the
15 Bureau of Indian Affairs Museum Trust. I was there
16 for over 30 years, and I have still not seen them
17 take control and report any of the collections that
18 they had at UCLA. So, I'm wondering, under these
19 provisions that Timothy McKeown mentioned, how are
20 you going to ensure that this actually happens, that
21 these collections are even accounted for, let alone
22 being included in the numbers that we see in the GAO
23 report? Thank you.

24 TIMOTHY MCKEOWN: If no one's answering -
25 obviously, ensuring that Federal agencies comply

1 with the statute is somewhat more problematic than
2 it is for museums. With museums, you have the
3 opportunity of going through an administrative
4 procedure for civil penalties. I think one of our
5 issues is that civil penalties have tended not to be
6 investigated as fulsomely as maybe they need to be.
7 However, there is a process, an administrative
8 process that is relatively inexpensive to initiate.
9 With Federal agencies, you don't have that. Going to
10 court is very expensive. The one place that is
11 useful is, if there is a clear violation of Federal
12 law, is to go to that agency's office of the
13 Inspector General and it's their charge to
14 investigate violations of Federal law by their
15 agency.

16 MELANIE O'BRIEN: Well, I will just add that
17 this is, Wendy, an issue that the Department has
18 addressed through the proposed regulations by
19 requiring Federal agencies respond to museum
20 statements about Federal holdings or collections. It
21 is obviously a well-known issue and one that we hope
22 will be resolved under the regulations through a
23 requirement for, one, for museums to report on
24 Federal holdings or collections and then for Federal
25 agencies to respond, and to attach timeframes to

1 both of those.

2 Mr. Chair, I think that concludes all of the
3 agenda items for today's meeting.

4 HALEALOHA AYAU: Any final comments before we
5 close the meeting?

6 ARMAND MINTHORN: Mr. Chair?

7 HALEALOHA AYAU: Yes, Armand.

8 **UPCOMING MEETINGS**

9 ARMAND MINTHORN: Melanie, can we, I guess,
10 restart the discussion we had on our in-person
11 meeting, the places, and maybe a timeframe of when
12 the in-person meeting could be?

13 MELANIE O'BRIEN: We certainly can. I did not
14 have Lesa prepare that for me yet. I planned to talk
15 about that at your next meeting on November 30th.
16 But Lesa, do you have that at hand? I know we
17 started the discussions already with the University
18 of California, Berkeley.

19 LESA KOSCIELSKI: Yes. That would be what I
20 would say. We've started the discussions with the
21 University of California, Berkeley - sorry, my dog
22 thinks that everybody talking means they get a treat
23 - as well as other museums in California, and then
24 we have also noted Armand's suggestion that we meet
25 in Wisconsin.

1 ARMAND MINTHORN: So, Melanie, do we have, I
2 guess, a window or a specific window in spring that
3 we would meet in person?

4 LESA KOSCIELSKI: I would jump in and say that
5 if we're meeting at a university, their preference
6 is almost always that we meet in the summer months
7 when there's a break from students being on campus.
8 So, that is something that could come into play.
9 It's not an absolute, but that could affect the
10 timing of the meeting for Berkeley would be what I'm
11 thinking of.

12 ARMAND MINTHORN: Well, Melanie, that kind of
13 narrows things down. Maybe would suggest, Mr. Chair,
14 that our next meeting be in Green Bay in person in
15 the spring.

16 HALEALOHA AYAU: I'll note it.

17 MELANIE O'BRIEN: Thank you.

18 HALEALOHA AYAU: Are there any last matters
19 before we close the meeting?

20 ARMAND MINTHORN: Melanie, when is our next Zoom
21 meeting?

22 MELANIE O'BRIEN: The last day of the month,
23 November 30th.

24 ARMAND MINTHORN: November 30th?

25 MELANIE O'BRIEN: Yes.

1 ARMAND MINTHORN: The same time?

2 MELANIE O'BRIEN: Yes, sir.

3 TOBY PATRICK: Okay. Hey, Melanie?

4 MELANIE O'BRIEN: Yes, sir.

5 TOBY PATRICK: I'm having problems with my
6 second paper that I'm trying to send to you. It's
7 not accepting my zip code, so do I just leave that
8 and just send it to you because I already had my zip
9 code on my other paper? For some reason or another,
10 it's not allowing me to move beyond the zip code.

11 MELANIE O'BRIEN: Yes. I will have Lesa reach
12 out to you, but I think she can probably fill that
13 in for you.

14 TOBY PATRICK: Okay, thank you.

15 HALEALOHA AYAU: Okay. With that, I think I'll
16 move to close the meeting and offer a closing
17 prayer.

18 MELANIE O'BRIEN: Certainly. Before you start
19 that, would you like me to stop the recording?

20 HALEALOHA AYAU: Yes, please.

21 **MEETING ADJOURNED**

22 **TRADITIONAL CLOSING**

23

24

25