

MINUTES

NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REVIEW COMMITTEE

Meeting 86 – November 1, 2023

Meeting 87 –November 30, 2023

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Background

The Native American Graves Protection and Repatriation Review Committee was established under the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq., which was signed into law on November 16, 1990.

Pursuant to 25 U.S.C. 3006 (c) and (h), the Review Committee is responsible for –

1. Designating one of the members of the committee as chair;
2. Monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
3. Upon the request of any affected party, reviewing and making findings related to-
 - A. The identity or cultural affiliation of cultural items, or
 - B. The return of such items;
4. Facilitating the resolution of any disputes among Indian Tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items, including convening the parties to the dispute if deemed desirable;
5. Compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;
6. Consulting with Indian Tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such Tribes or organizations;
7. Consulting with the Secretary of the Interior in the development of regulations to carry out this Act;
8. Performing such other related functions as the Secretary may assign to the committee;
9. Making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated; and
10. Submitting an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

The Review Committee is organized and administered according to the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (2006).

Six Review Committee members are appointed by the Secretary of the Interior from nominations by Indian Tribes, Native Hawaiian organizations, traditional Native American religious leaders, national museum organizations, and national scientific organizations. At least two of the members must be traditional Indian religious leaders. One Review Committee member is appointed by the Secretary from a list of persons developed and unanimously approved by the other members.

The Review Committee reports to the Secretary of the Interior. Under the Review Committee's charter, the Manager, National NAGPRA Program, National Park Service (NPS) serves as the Designated Federal Officer (DFO) to the Review Committee. The DFO oversees the activities of the Review Committee and coordinates administrative and staff support to the Review Committee on behalf of the Secretary of the Interior.

Additional information about the Review Committee – including the Review Committee's charter, membership, meeting procedures, and dispute procedures – is available at the National NAGPRA Website, nps.gov/nagpra (click on "Review Committee").

Notice of this series of Review Committee meetings was published in the *Federal Register* on October 3, 2023 (88 FR 68145).

The 86th Meeting of the Review Committee

The 86th meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Ms. Melanie O'Brien, DFO, at 2 p.m. (Eastern), on Wednesday, November 1, 2023. Ms. O'Brien confirmed the attendance of the Review Committee members and stated that the Federal Advisory Committee Act (FACA) requirements were met regarding the publication of the meeting notice and agenda prior to the meeting. Ms. O'Brien welcomed Mr. Toby Patrick to the Review Committee and to his first meeting. Mr. Patrick was nominated by his Tribe, the Confederated Tribes of the Umatilla Reservation. Mr. Patrick stated he was thankful to be on the Review Committee and offered a brief summary of his experience working in cultural resources with his Tribe. Mr. Toby Patrick and Mr. Armand Minthorn offered a traditional opening.

Review Committee members present –
Mr. Halealoha Ayau – Chair
Mr. C. Timothy McKeown – Vice Chair
Ms. Domonique deBeaubien
Ms. Angela Garcia-Lewis
Mr. Armand Minthorn
Mr. Toby Patrick
Ms. Shelby Tisdale

Designated Federal Officer present –
Ms. Melanie O'Brien, Manager, National NAGPRA Program, National Park Service

Selection of a Chair

Selection of a chair is required under the Federal Advisory Committee Act and the Review Committee's current charter. The Review Committee agreed to select Mr. Ayau as chair and Mr. McKeown as vice chair, noting Mr. McKeown's term will end in June 2024.

National NAGPRA Program Report

Ms. O'Brien described the responsibilities delegated to the Program Manager and the National NAGPRA Program by the Secretary of the Interior. Ms. O'Brien stated that full statistics on the work of the National NAGPRA Program are available in the Program's annual fiscal year reports on the National NAGPRA Program website, at <http://www.nps.gov/nagpra/>.

Ms. O'Brien highlighted several key items from FY 2023:

- In October 2022, the Department of the Interior published proposed revisions to the NAGPRA regulations. The deadline for public comment was January 31, 2023. The Department received 181 submissions. On September 21, 2023, the Office of Management and Budget began its review of the final rule, which is the last step in the rulemaking process. The Department hopes that the final rule will be published before the end of the 2023 calendar year.
- Congress appropriated 3.4 million dollars for NAGPRA grants, the largest amount of grant funding in the history of the NAGPRA Program. The largest number and largest amount of repatriation grants were awarded, with 21 grants totaling over 271,000 dollars. Changes to NAGPRA grants include an increase in funding limits for consultation and documentation grants to 100,000 dollars and repatriation grants to 25,000 dollars, as well as an increase in length of the repatriation grant cycle. In August 2023, grants were awarded to 16 Indian Tribes and 28 museums.
- This year, the percentage of reported human remains that have completed the NAGPRA process for consultation and notification is over 50 percent (55 percent) and, for the first time in 33 years, the number of individuals who are still awaiting consultation and notification under the regulations is under 100,000 (at 96,488).
- The National NAGPRA Program received 475 notices and published 446 notices in the *Federal Register*, both record-breaking numbers.

The Review Committee discussed, and asked questions related to, grants, timelines for notice publication, and the annual Program report.

Presentation: U.S. Dept. of Agriculture, Forest Service

Ms. Leslie Schmidt, Forest Service NAGPRA Coordinator, presented a brief overview of, and organization of, staff with NAGPRA responsibilities and an update on the Forest Service's collection process and NAGPRA implementation.

The Review Committee asked follow-up questions centering on the Forest Service's collection history, the number of individuals in its inventory that are pending resolution, the agency's consultation policy and efforts, and its future projected expenditures.

Discussion of the Report to Congress FY 2023

Prior to the meeting, the subcommittee on the annual report to Congress prepared and distributed a draft report for FY 2023 for the full committee's consideration, a copy of which was included in the meeting materials. The Review Committee reviewed the draft, identified minor, nonsubstantive edits, and approved the report.

Written and Public Comment

The Federal Advisory Committee Act (FACA) requires that Review Committee meetings be conducted in public and provide an opportunity for the public to offer comment. The public may participate in NAGPRA Review Committee meetings in three ways: by making oral presentations, providing public comment, or submitting written comment. Written comments are provided to the Review Committee prior to the meeting to allow time for informed review and consideration. The Review Committee received four written comments, from U.S. Dept. of the Interior, Indian Affairs; Harvard University; Ohio History Connection; and Ms. Lynne Sullivan, copies of which are contained in the meeting materials. The Review Committee acknowledged that these comments inform the work of the Review Committee during both meeting discussions and the development of the reports to Congress.

Ms. Sarah Childers

Ms. Childers, Assistant Tribal Historic Preservation Officer, Flandreau Santee Sioux Tribe, asked for assistance in returning the remains of individuals and cultural items from war campaigns and in identifying Forest Service lands in the Black Hills for the reburial of ancestral remains.

Mr. Jack Omelak

Mr. Omelak submitted a question in the chat regarding the definition of Indian Tribe under the CARES Act.

Mr. Dillon Dobson

Mr. Dobson submitted a question in the chat on encouraging institutional administrative and bureaucratic changes to improve NAGPRA compliance and meet regulatory standards.

Ms. Wendy Teeter

Ms. Teeter, retired curator of archaeology for the Fowler Museum and cultural resource archaeologist for the Santa Ynez Band of Chumash Indians, stated she had experience with a Federal agency that had not reported its collections, and she asked how that matter could be addressed.

The Review Committee acknowledged the comments, which inform the work of the Review Committee during its discussions, as well as in development of its reports to Congress. To the extent practicable, the Review Committee and staff addressed these questions.

Upcoming Meeting Location Discussion

The Review Committee discussed its previous suggestions to meet in California or Wisconsin.

Meeting Adjournment

The meeting was adjourned by Ms. O'Brien at 4:56 p.m. (Eastern).

The 87th Meeting of the Review Committee

The 87th meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Ms. Melanie O'Brien, DFO, at 2 p.m. (Eastern), on Thursday, November 30, 2023. Ms. O'Brien confirmed the attendance of the six currently appointed Review Committee members and stated that the Federal Advisory Committee Act (FACA) requirements were met regarding the publication of the meeting notice and agenda prior to the meeting. Mr. Toby Patrick and Mr. Armand Minthorn offered a traditional opening.

Review Committee members present –
Mr. Halealoha Ayau – Chair
Mr. C. Timothy McKeown – Vice Chair
Ms. Domonique deBeaubien
Ms. Angela Garcia-Lewis
Mr. Armand Minthorn
Mr. Toby Patrick
Ms. Shelby Tisdale

Designated Federal Officer present –
Ms. Melanie O'Brien, Manager, National NAGPRA Program, National Park Service

Report to Congress for FY 2022

Ms. O'Brien stated the Review Committee's report is currently under review within the Department. The Review Committee discussed distribution of the report, including a distribution list developed by the members. The Review Committee requested that the Department submit its report to Congress as quickly as possible.

Presentation: Illinois State Museum

Ms. Brooke Morgan, Curator of Anthropology and NAGPRA contact, provided information in response to the Review Committee's request for budget information for current and future NAGPRA compliance.

The Review Committee asked follow-up questions centering on Illinois State Museum's collection, budget information, status of NAGPRA implementation, and the role of traditional knowledge in the identification process.

Presentation: U.S. Dept. of the Interior (DOI)

Ms. Rachel Brown, Senior Advisor to the Assistant Secretary for Policy, Management and Budget (AS PMB), stated the Secretary's office recently issued a policy memo (included in the meeting materials) to all DOI bureaus and offices with NAGPRA responsibilities, which outlined the DOI's expectations and policies concerning NAGPRA compliance. The memo directed the AS PMB, in coordination with bureaus and offices, to develop an action plan to ensure that all agency NAGPRA policies are consistent across DOI and that NAGPRA compliance is coordinated among the bureaus, as well as to convene both a leadership level working group and a working group composed of NAGPRA coordinators. Ms. Brown provided a brief background on PMB, which is responsible for DOI-wide policy compliance and budgeting.

Ms. Emily Palus, Division Lead for Museum and Cultural Resources, provided a broad overview of PMB and the policy, as well as details on steps to elevate, prioritize, and focus internally on DOI's own compliance and repatriation responsibilities.

The Review Committee asked follow-up questions centering on DOI's collections, including questions concerning currently unknown collections, an outstanding request from the Review Committee for budget information for current and future NAGPRA compliance, an outstanding request to the Solicitor's Office to issue an opinion on the ownership of collections from Indian land collected pursuant to the Antiquities Act, the status of DOI's NAGPRA implementation, relationships between Federal agencies and repositories, and DOI bureau policies on reburial.

Written and Public Comment

Ms. Noreen Dimaggio

Ms. Dimaggio submitted a question regarding funding under the revised rule (effective January 12, 2024).

The Review Committee acknowledged the comment, which informs the work of the Review Committee during its discussions, as well as in development of its reports to Congress.

Upcoming Meeting Location Discussion

The Review Committee members discussed possible meeting locations in Berkeley, CA, Sacramento, CA, and Green Bay, WI. Ms. O'Brien stated that the Program will work toward possible meetings in 2024.

Other Business

The Review Committee suggested future agenda topics and asked clarifying questions regarding the National NAGPRA Program report for FY 2023.

Meeting Adjournment

The meeting was adjourned by Ms. O'Brien at 4:23 p.m. (Eastern).

Certified by

Edward H Ayau

Mr. Halealoha Ayau
Chair, Native American Graves Protection
and Repatriation Review Committee

January 26, 2024

Date

Certification ensured by

Melanie A O'Brien

Ms. Melanie O'Brien
Manager, National NAGPRA Program
Designated Federal Officer, Native American Graves Protection
and Repatriation Review Committee

January 26, 2024

Date

Attendees

In addition to Review Committee members, the DFO, and individuals speaking at each meeting, as identified in the text of the minutes above, the following individuals were in attendance during part or all of at least one meeting –

Department of the Interior staff in attendance –

Mr. David Barland-Liles, Investigator, National NAGPRA Program

Ms. Laurie Jennings, Documents and Reports Coordinator, National NAGPRA Program, National Park Service

Ms. Lesa Koscielski, Review Committee Coordinator, National NAGPRA Program, National Park Service

Ms. Angelina Miller, Grants Coordinator, National NAGPRA Program, National Park Service

Ms. Mariah Soriano, Compliance Coordinator, National NAGPRA Program, National Park Service

Mr. David Tarler, Training, Civil Enforcement, and Regulations, National NAGPRA Program, National Park Service

Mr. Brady Blasco, Attorney-Advisor, Division of Parks and Wildlife, Office of the Solicitor

Mr. Stephen Simpson, Senior Attorney, Division of Indian Affairs, Office of the Solicitor

Persons in attendance (names as provided by attendees): Sabrina Agarwal, Anne Amati, Bridget Ambler, Marie Archambeault, Tya Ates, Rebecca Barzilai, Elena Baylis, Rochelle Bennett, Jan Bernstein, Marcella Billie , Kellie Bowers, Andrea Bridges, Nancy Brighton, Xiola Bromley, Rachel Brown, Laura Bryant, RaeLynn Butler, Christina Cain, Patricia Capone, Aimee Carbaugh, June Carpenter, Mary Carroll, Emily Castano, Sara Childers, Jessie Cohen, Kate Compton-Gore, Tammy Conquest, Meg Cook, Jacqueline Cook, Amy Covell-Murthy, Ellyn DeMuynck, Noreen Dimaggio, Dillon Dobson, Glenys Echavarrí, Charla EchoHawk, Sarah Eckhardt, Robby Elmore, Darius Enos , Madeleine Fang, Kathleen Fine-Dare, Michelle Fitzgerald, Leslie Freund, Victoria Gagnon, Angela Garcia-Lewis, Zachary Garrett, Chyan Gilaspy, Sheila Goff, Autumn Gorrell, Priscilla Grew, Valerie Grussing, Erin Guthrie, Miriam Hamburger, Eve Hargrave, Jasmine Heckman, Jess Hendrix, Phil Hodge, Amber Hood, Kara Hurst, Eryn Hyma, Logan Jaffe, Lauren Jelinek, Nedra Joe, Jim Johannsen, Greg Johnson, Eddie Johnson, Susan Johnson, Natasha Johnson , Alexander Kikutis, Priscella Kinney, Emma Lagan, Stacy Laravie, Rechanda Lee, Jordan Leininger, Elizabeth Leith, Jaime Lennox, Alexandra Lucas, Jenna Macaulay, Melissa Madrigal, Eugene Marino, Martha Martinez, Jean Matthiessen, Alaina McCoy, Nancy McPherson, Heather Miller, Angelina Miller, Katy Mollerud, Ted Monoson, Elizabeth Moore, Brooke Morgan, Blythe Morrison, Allison Mueller, Nell Murphy, Angela Neller, Tremayne Nez, Megon Noble, Sarah O'Donnell, Olof Olafardottir-Hamilton , Shannon O'Loughlin, Jack Omelak, Tina Osceola, Emily Palus, Toby Patrick, Jane Pickering, Candice Ralston, Cassandra Reed, Jacqueline Reisner, Deirdre Remley, Marjorie Rhodes-Ousley, Jane Richardson, Jane Rousseau, Elisa Ryan, Kathryn Sabella, Candace Sall, Leslie Schmidt, Renee Schneider, Chelsey Schrock, Kinsey Shade, Theodora Simon, Noel Smith, Sarah Spota, Basil Stewart, Barrett Stout, Lynne Sullivan, Kai Suter, Adriane Tafoya, Kelly Teale, Wendy Teeter, Jayne-Leigh Thomas, Elizabeth Toombs, Thomas Torma, Christine Treadway, Kate Trusler, Jackie Veninger-Robert, Susan Vezeau, Walter Viar, T.Y. Wadford, Michael Walters, Chance Ward, Amy Ward-Meier, Maria Watson, Reylynne Williams, and Julie Woods. Several attendees joined by phone only and names are not available. Full attendance reports were collected and will be included with the Review Committee records for these meetings.