

MINUTES

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

THIRTY-FIFTH MEETING

OCTOBER 15-16, 2007

**STEELE AUDITORIUM
HEARD MUSEUM
PHOENIX, AZ**

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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 by President George Bush on November 16, 1990.

The Review Committee's charter states that –

“The duties of the Committee are solely advisory. Specifically, the Committee will be responsible for:

1. Monitoring and reviewing the implementation of the inventory and identification processes and repatriation activities required under sections 5, 6, and 7 of Public Law 101-601 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;
2. Reviewing and making findings relating to the identity or cultural affiliation of human remains, funerary objects, sacred objects, and objects of cultural patrimony, or the repatriation of such items, upon the request of any affected party;
3. Facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants, and Federal agencies or museums relating to the repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony, including convening the parties to the dispute, if deemed desirable;
4. 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 disposition of such remains;
5. Consulting with Indian tribes, Native Hawaiian organizations, and museums on matters pertaining to the work of the Committee affecting such tribes or organizations;
6. Consulting with the Secretary [of the Interior] in the development of regulations to carry out Public Law 101-601;
7. Performing such other related functions as the Secretary [of the Interior] may assign to the Committee;
8. Making recommendations, if appropriate, regarding future care of human remains, funerary objects, sacred objects, and objects of cultural patrimony which are to be repatriated; and
9. Submitting an annual report to Congress on the progress and any barriers encountered in carrying out the Committee responsibilities during the year.”

The Review Committee is organized and administered according to the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1994).

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 scientific organizations.

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) or a designee serves as the Designated Federal Officer (DFO), who oversees the activities of the Review Committee and with whom the National Park Service provides 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 protocol, and dispute procedures – is available at the National NAGPRA Website, <http://www.cr.nps.gov/nagpra/> (click on “Review Committee”).

Notice of this Review Committee meeting was published in the Federal Register on August 7, 2007 (Vol. 72, No. 151, page 44181-44182).

The 35th Meeting of the Review Committee

The 35th meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Ms. Rosita Worl at 8:47 a.m., Monday, October 15, 2007, in the Steele Auditorium, Heard Museum, Phoenix, AZ.

Review Committee members –

Ms. Rosita Worl – Chair
Ms. Donna Augustine
Mr. Alan Goodman (via telephone for indicated portions of the meeting)
Mr. Willie Jones
Mr. Colin Kippen
Mr. Dan Monroe
Mr. Vincas Steponaitis

Designated Federal Officer –

Mr. Timothy McKeown, Program Officer, National NAGPRA Program

National Park Service/Department of the Interior staff in attendance –

Ms. Sherry Hutt, Program Manager, National NAGPRA Program, National Park Service
Ms. Robin Coates, Secretary, National NAGPRA Program, National Park Service
Ms. Jaime Lavallee, Notice Coordinator, National NAGPRA Program, National Park Service
Mr. David Tarler, Training and NAGPRA Compliance, National NAGPRA Program, National Park Service
Mr. Bob Palmer, Civil Penalties Investigator, Division of Law Enforcement Security and Emergency Services, National Park Service
Mr. Greg Lawler, National Staff Ranger, Division of Law Enforcement Security and Emergency Services, National Park Service
Ms. Lesa Koscielski, Contractor, National NAGPRA Program, National Park Service
Ms. Carla Mattix, Division of Parks and Wildlife, Office of the Solicitor
Mr. Stephen Simpson, Division of Indian Affairs, Office of the Solicitor

Persons in attendance during part or all of the meeting (names and affiliations as provided at the meeting by attendees) –

Mr. Ben Aleck, Pyramid Lake Paiute Tribe, Nixon, NV
Ms. Jai Alterman, Smithsonian Institution, Washington, DC
Ms. Bridget Ambler, Colorado Historical Society, Denver, CO
Ms. Jess Anderson-Milhausen, University of Colorado Museum, Boulder, CO
Mr. Shane Anton, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ
Ms. Risa Arbolino, Smithsonian Institution, National Museum of Natural History, Washington, DC
Mr. Aub Atwell, Santa Rosa Rancheria, Lemoore, CA
Ms. Keola Awong, National Park Service, Hawaii Volcanoes National Park, HI
Ms. Jan Bernstein, Bernstein and Associates, Denver, CO
Mr. Bill Billeck, Smithsonian Institution, Washington, DC
Ms. Sheree Bonaparte (via telephone), St. Regis Mohawk Tribe, Akwesasne, NY
Ms. Lori Breslauer, Field Museum, Chicago, IL
Ms. Susan Bruning, Society for American Archaeology, Irving, TX
Mr. Johnathan Buffalo (via telephone), Sac and Fox Tribe of the Mississippi in Iowa, Tama, IA
Mr. Barry Cantley, Bureau of Indian Affairs, Phoenix, AZ
Mr. Ken Carlton (via telephone), Mississippi Band of Choctaw Indians, Choctaw, MS
Ms. Mary Carroll, National Park Service, Denver, CO
Mr. Brinnen Carter (via telephone), Southeast Archaeological Center, Tallahassee, FL
Mr. Stuart Ching, Iolani Palace, Honolulu, HI
Ms. Sharon Cini, Hopi/Dine, Gilbert, AZ
Mr. Rick Clark, Gulf Islands National Seashore, Gulf Breezes, FL
Mr. Arden Comanche, Mescalero Apache Tribe, Mescalero, NM
Ms. Destiny Crider, ARI, ASU, Tempe, AZ

Mr. Kippen de Alba Chu, Iolani Palace, Honolulu, HI
Mr. Douglas Deur, University of Washington, Arch Cape, OR
Mr. Stacy Dixon, Susanville Indian Rancheria, Susanville, CA
Ms. Theresa Dixon, Susanville Indian Rancheria, Susanville, CA
Ms. Marci Donaldson, Tucson, AZ
Ms. Sandra Dong, Peabody Museum of Archaeology and Ethnology, Cambridge, MA
Mr. Alan Downer, Navajo Nation, Window Rock, AZ
Ms. Carla Eben, Pyramid Lake Paiute Tribe, Nixon, NV
Ms. Marguerite Edwards, Puyallup Tribe of Indians, Tacoma, WA
Ms. Phyllis Ewing, Effigy Mounds National Monument, Harpers Ferry, Iowa
Mr. T. J. Ferguson, Smithsonian Institution Repatriation Review Committee, Tucson, AZ
Mr. Lalo Franco, Santa Rosa Rancheria Tachi Tribe, Lemoore, CA
Ms. Angela D. Garcia-Lewis, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ
Mr. George Garvin (via telephone), Ho-Chunk Nation, Black River Falls, WI
Mr. Gary Gilbert, Ak Chin Indian Community, Maricopa, AZ
Ms. Sheila Goff, University of Colorado Museum, Boulder, CO
Ms. Lena Gomez, Mesa, AZ
Ms. Martha Graham, TRC, Albuquerque, NM
Ms. Sandra Harris, University of California, Phoebe Hearst Museum, Berkeley, CA
Mr. Eric Hemenway, Little Traverse Bay Bands of Odawa Indians, Harbor Springs, MI
Mr. Phil Hoog, San Diego Museum of Man, San Diego, CA
Ms. Holly Houghten, Mescalero Apache Tribe, Mescalero, NM
Mr. Jordan Jacobs, American Museum of Natural History, New York, NY
Mr. Joseph Joaquin, Tohono O'odham Nation, Sells, AZ
Ms. Erica Johns, La Plata, NM
Mr. John Johnson, Chugach Alaska Corporation, Anchorage, AK
Ms. Davon Joseph, Susanville Indian Rancheria,
Mr. Keith Kintigh, Society for American Archaeology, Arizona State University, Tempe, AZ
Ms. Amy Kolakowsky, Flagstaff, AZ
Ms. D. Bambi Kraus, National Association of Tribal Historic Preservation Officers/Kake Tribal, Washington, DC
Ms. Teresa Kreutzer-Hodson (via telephone), Hastings Museums, Hastings, NE
Mr. Leigh Kuwanwisiwma, Hopi Tribe, Kykotsmovi, AZ
Ms. Heather Lane, University of Arizona, College of Law, Tucson, AZ
Mr. Bryan Lausten, Bureau of Reclamation, Glendale, AZ
Mr. Barnaby V. Lewis, Gila River Indian Community, Cultural Resource Management Program, Sacaton, AZ
Ms. Celesta Littleman, Arizona State University, Phoenix, AZ
Ms. Gloria Lomahaftewa, Museum of Northern Arizona, Flagstaff, AZ
Mr. Lee Lomayestewa, Hopi Tribe, Kykotsmovi, AZ
Ms. Bonnie Magness-Gardiner, Federal Bureau of Investigations, Washington, DC
Ms. Cyd Martin, National Park Service, Flagstaff, AZ
Ms. Susan Martin, Michigan Technological University, Houghton, MI
Mr. John McClelland, University of Arizona, Arizona State Museum, Tucson, AZ
Ms. Marilyn Merdzinski, Public Museum, Grand Rapids, MI
Mr. Francis Morris (via telephone), Pawnee Nation of Oklahoma, Pawnee, OK
Ms. Ena Mullen-Trau, Susanville Indian Rancheria, Susanville, CA
Ms. Nell Murphy, American Museum of Natural History, New York, NY
Mr. Patt Murphy, Iowa Tribe of Kansas and Nebraska, Salina, KS
Ms. Carmen Narcia, Ak-Chin Indian Community, Maricopa, AZ
Ms. Angela Neller, Wanapum Heritage Center, Ellensburg, WA
Ms. Monica Obregon, Pascua Yaqui Tribe, Tucson, AZ
Ms. Theresa Pasqual, Pueblo of Acoma, Acoma, NM
Mr. Cecil E. Pavlat, Sr., Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, MI
Mr. Manuel Pino, Acoma Pueblo, Scottsdale Community College, Scottsdale, AZ
Mr. James Riding In, National Association of Tribal Historic Preservation Officers, Arizona State University,
Tempe, AZ
Mr. Ramon Riley, White Mountain Apache Tribe, Fort Apache, AZ

Ms. Helen Robbins, Field Museum, Chicago, IL
Mr. Dave Ruppert, National Park Service, Denver, CO
Ms. Alyce Sadongei, Arizona State Museum, University of Tucson, Tucson, AZ
Ms. Marren Sanders, NPTAO, Tucson, AZ
Ms. Farrah Secody, Arizona State Museum, Tucson, AZ
Ms. June Sell-Sherer, Confederated Tribes of Grand Ronde Community of Oregon, Grand Ronde, OR
Ms. Valorie Sheker, Confederated Tribes of Grand Ronde Community of Oregon, Grand Ronde, OR
Ms. Arleyn Simon, Arizona State University, Tempe, AZ
Mr. Gerald Singer, American Museum of Natural History, New York, NY
Mr. Chuck Smythe, National Park Service, Northeast Region, Boston, MA
Mr. Geoffrey Stauffer, University of Arizona, College of Law, Tucson, AZ
Mr. Elmer Thomas, Santa Rosa Rancheria, Tachi Yokut, Lemoore, CA
Ms. Susan Thomas, Bureau of Land Management, Dolores, CO
Ms. Brenda Todd, National Park Service, Lakewood, CO
Ms. Silene Tsosie, Arizona State University, Phoenix, AZ
Ms. Nina Versaggi (via telephone), State University of New York, Binghamton, NY
Ms. Kelly Washington, Salt River Pima-Maricopa Indian Community Cultural Resources Department, Scottsdale, AZ
Mr. Peter Welsh, Arizona State University, Tempe, AZ
Ms. Winnay Wemigwase, Little Traverse Bay Bands of Odawa Indians, Harbor Springs, MI
Mr. Glenn White, ASU, Scottsdale, AZ
Ms. Lisa Wiltshire, Arizona State University student, Sacaton, AZ
Mr. Frank Wozniak, USDA Forest Service, Albuquerque, NM
Mr. Fred York, National Park Service, Pacific West Region, Park NAGPRA, Seattle, WA

Introduction/Welcome

Mr. Joseph Joaquin offered an invocation the first day of the meeting. Mr. Barnaby Lewis offered an invocation the second day of the meeting. Ms. Worl thanked the Salt River Pima Maricopa for allowing the Review Committee to meet in their land, the Heard Museum for hosting the meeting, and the elders, tribal leaders, and all members of the public for attending the meeting. Mr. McKeown called the roll of members and confirmed that the Review Committee had quorum for the meeting. Ms. Worl thanked the Huna Heritage Foundation and Sealaska Corporation for providing coffee for the meeting.

Comments and Review of the Agenda – Designated Federal Official

Mr. McKeown announced that the meeting was a public meeting and a notice had been published in the Federal Register in accordance with Federal Advisory Committee Act (FACA) procedures. Mr. McKeown gave a brief review of the agenda.

Draft Report on the Implementation of NAGPRA for FY2007

Overview

Ms. Hutt welcomed the Review Committee to the Heard Museum and stated that the Review Committee last met at the Heard Museum in 1995, where the main discussion topics were the then recently promulgated regulations and the arrival of the first inventories. At the time of the current meeting, the future applicability regulations were promulgated, with the first dates for compliance and summaries due the following week, and the rule on culturally unidentifiable regulations was due to be published at any time. Ms. Hutt stated that a one-page handout of the year in progress for the National NAGPRA Program was available at the registration table and National NAGPRA staff members would be describing their tasks throughout the meeting. Ms. Hutt stated that the Review Committee members had a copy of the Draft National NAGPRA Year End Report in their binders.

At the previous meeting in Washington, DC, the Review Committee asked for a Manager's Report in addition to the National NAGPRA Midyear and End Year Reports. Ms. Hutt stated that the Manager's Report she provided to the Review Committee members was a holistic summary of the program, the current status of compliance with NAGPRA, future issues, and the status of the progress of NAGPRA compliance on a national basis. Ms. Hutt stated she was willing to discuss the report either at the current meeting or in the future.

Mr. Steponaitis asked for an update on the proportional use of funds appropriated for grants. Ms. Hutt stated that National NAGPRA Program expenses were reduced by more than \$100,000 over the previous year's amount, which was itself a reduction over the prior year. The amount allocated for grants remained constant. Congress does not appropriate funds for the administration of the National NAGPRA Program. The NPS provides funding for the National NAGPRA Program, and a certain percentage of the grants funds are directed toward administration each year. Ms. Hutt stated that Mr. Steponaitis was correct in that approximately one-half million dollars of the grants appropriation was used for administration.

Ms. Worl stated that in her experience some institutions that reported they had no collection requiring an inventory in fact did have collections that were subject to NAGPRA. Ms. Worl recommended that the National NAGPRA Program develop a sample survey to verify this information with a number of these institutions.

Ms. Worl asked for clarification of the 250 undesignated cultural objects reported in the totals under Notices of Intent to Repatriate. Ms. Hutt stated that the template for Notices of Intent to Repatriate requests that the originating institution identify items by category, as defined by NAGPRA. One museum submitted a Notice of Intent to Repatriate that identified the items physically but not by category. After consulting with counsel, the National NAGPRA Program was advised that identifying items by category cannot be required, and thus those objects are identified as nondesignated cultural objects. Ms. Hutt stated that the template remains the same, and the National NAGPRA Program will only use the category of nondesignated cultural objects when requested by the institution. Ms. Worl asked for clarification of why the practice started now. Ms. Mattix stated in this case the museum did not want to identify the specific category, which is not required under the regulations. The regulations require a physical description of objects sufficient to give the public notice that an item falls under NAGPRA. Ms. Worl stated that she would like further analysis of this issue and perhaps the regulations need to be revised.

Ms. Worl stated she liked having the dispute report, and in addition would like to have dates for each dispute and additional clarification on the basis for each dispute.

Publication of Federal Register Notices

Ms. Jaime Lavallee, Notice Coordinator, National NAGPRA Program, summarized the status of the publication of Federal Register notices. In FY2007, 77 Notices of Inventory Completion were published. This brought the program total to 1,016 published Notices of Inventory Completion accounting for 32,706 human remains and 685,064 associated funerary objects. In FY2007, 31 Notices of Intent to Repatriate were published. This brought the program total to 376 published Notices of Intent to Repatriate accounting for 12,489 unassociated funerary objects, 3,598 sacred objects, 303 objects of cultural patrimony, 773 objects that were both sacred objects and objects of cultural patrimony, and 215 undesignated cultural items. The National NAGPRA Program published 108 notices in FY2007, an increase of 8 notices over FY2006. The National NAGPRA Program received 135 notices in FY2007, an increase of 39 notices over FY2006. Ms. Lavallee stated she was working to decrease the backlog of old notices and reported that the backlog now contained no Notices of Intent to Repatriate, which was a priority due to sensitive timeline considerations. Ms. Lavallee stated that to date 1,065 institutions have submitted summaries and 1,253 institutions have submitted inventories. These numbers may change with the new requirements set forth in 43 CFR 10.13, Future applicability.

Mr. Steponaitis commended Ms. Lavallee for her efforts and stated it was a pleasure to work with her in publishing notices for his institution. Mr. Steponaitis asked for a summary of the process of including the information submitted by the institution, which owns the notices, and the requirements of the National NAGPRA Program for notices. Ms. Lavallee stated that using the institution's inventory, she reviews each submitted notice to ensure that the information was complete and correct, such as information that the notice demonstrates cultural affiliation for each site. Ms. Lavallee stated that sometimes institutions or Indian tribes request additional information to be included in the notice, such as a tribal resolution or additional information on cultural affiliation.

Grants Program

Ms. Hutt provided a summary of the activity in the Grants Program for FY2007. Ms. Hutt stated that Ms. Michelle Wilkinson accepted a position as Assistant Director and Head of Collections for the Reginald Lewis Museum of African American History in Baltimore, MD, and regrettably left the National NAGPRA staff as Grants Coordinator. While working with the program, Ms. Wilkinson worked on outreach, with the idea of increasing the quality and number of grants. This past year the grants panel commented that the quality of grants being submitted was increasingly higher and they appreciated all of the hard work of the museums and Indian tribes. Ms. Hutt stated there was a list of all funded grants on page 17 of the report. One of Ms. Wilkinson's projects was to write a letter to all grant applicants. Ms. Wilkinson provided successful applicants with suggestions from the grants panel on how to make their grant successful and to applicants who did not receive grants on suggestions to improve future grant applications. As a result, seven grant proposals were funded in 2007 that were not funded in 2006. Ms. Hutt stated that applications for the Grants Coordinator position would be accepted until the October 26, 2007 deadline.

Training

Ms. Hutt provided a summary of the training activities of the National NAGPRA Program for FY2007. Ms. Hutt stated that Mr. Tarler is the Training Coordinator and Civil Penalties Coordinator for the National NAGPRA Program. Mr. Tarler coordinates the trainings and designs the training materials. In FY2007, 1,913 people were served by the National NAGPRA Program, which was a 30 percent increase over FY2006. The total for FY2006 was a 100 percent increase over the previous year, as was the total for FY2005. The programs presented show a diversity of those served, with representatives of Indian tribes, museums, federal agencies present. In addition, other outreach methods were utilized, including sponsored trainings and video broadcasts. Ms. Hutt described a recent project done in consultation with the Department of Justice, NPS, Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, and the Forest Service to produce a ten-segment broadcast with nine different instructors from across the country. Mr. Tarler was the executive producer, and the television program was broadcast over the Justice Television Network and will be rebroadcast over the Fish and Wildlife Television Network to all federal agencies. Ms. Hutt stated approximately 400 people saw the broadcast, and those were in addition to the number contained in the report.

Mr. Steponaitis commended the staff for all of their work and stated he agreed with Ms. Hutt that training was critical. Mr. Steponaitis stated he would like to reiterate a point he has made previously, that the training as currently given would be much improved if it gave more attention to the issue of cultural affiliation and the way evidence must be weighed in determining cultural affiliation. Ms. Hutt stated that she had an opportunity to review the training program with Mr. Steponaitis and received his comments. Mr. Monroe stated he applauded the advances made in training and asked if a standard evaluation mechanism was available. Ms. Hutt stated that a uniform DOI training evaluation was distributed at the trainings. Mr. Monroe asked for a written summary of the evaluation data at the next meeting. Ms. Worl stated that she has heard great reports on the training, and that there may be a basic issue around cultural affiliations where Indian tribes are thinking that museums were demanding too much.

Program Manager's Report to the NAGPRA Review Committee, Cumulative Status Review as of September 30, 2007

Ms. Hutt summarized the Program Manager's Report to the NAGPRA Review Committee, Cumulative Status Review as of September 30, 2007. Ms. Hutt stated that in the report, she divided the issues in the program topically and included the following sections: one, decision making in NAGPRA as a whole; two, the process used by the National NAGPRA Program to administer NAGPRA and move issues forward and the role of the Review Committee in that process; three, the status of compliance enforcement; four, a comparison of NAGPRA to other laws and how NAGPRA interrelates; and five, program operations in terms of how the program is staffed and its functions. Ms. Hutt stated further study might answer questions regarding evolving issues in NAGPRA, such as when human remains are repatriated they tend not to have associated funerary objects and so Indian tribes are trying to identify where collections could be that go with these individuals.

A number of issues continue to be at the forefront. Consultation continues to be an issue, as it's not defined in any law or regulations but is very critical to the NAGPRA process. Right of possession is an issue that the National NAGPRA Program continually tries to clarify. Ms. Hutt stated that she included a section in the report of Frequently Asked Questions, as well as clarification of the process of distinguishing possession and control and its importance to the repatriation process. The National NAGPRA Program encourages the use of a document that evidences finality of transfer of control in all repatriations and requires such a document for closure of repatriation grants. Another priority of the National NAGPRA Program was moving prior cultural affiliation determinations indicated in inventories to published notices, as part of the compliance process. Ms. Hutt stated that she also discussed the disposition of culturally unidentifiable human remains and unclaimed human remains, as well as the dispute resolution process. Ms. Hutt stated that she included a section in the report on the Review Committee, its function, value and impact. On behalf of the National NAGPRA Program, Ms. Hutt thanked the Review Committee members for their time and attention and stated they were an important part of the NAGPRA process.

Review Committee Correspondence

Presentation of Letter from Senator Byron Dorgan

Mr. McKeown read into a letter a letter from Senator Byron Dorgan, chairman of the Senate Indian Affairs Committee, to Review Committee chair Rosita Worl describing Senate Bill 2087 which was introduced by Senator Dorgan and Senator McCain on September 25, 2007, and approved by the Senate Indian Affairs Committee on September 27, 2007. The bill was a technical amendment that would amend several Indian laws. Section 2 of the bill amends the definition of the term "Native American" in NAGPRA to clarify that in the context of repatriations the term "Native American" refers to a member of a tribe, people or culture that is or was indigenous to the United States. Senator Dorgan included a copy of the bill as it was favorably reported by the Senate Indian Affairs Committee.

Ms. Worl recommended that the Review Committee respond to Senator Dorgan and thank him for his work. Ms. Hutt also wanted to acknowledge the work of the Review Committee, which has twice made this recommendation in its report to Congress.

Review Committee Motion

Mr. Kippen made a motion that the Review Committee send a letter to Senator Dorgan as described by Ms. Hutt. Mr. Jones seconded the motion. The motion was adopted by unanimous vote.

Request for a Recommendation Regarding the Disposition of Culturally Unidentifiable Human Remains in the Possession of Effigy Mounds National Monument

Presentation of Issue

Ms. Phyllis Ewing, Superintendent, Effigy Mounds National Monument, stated Effigy Mounds National Monument was requesting a recommendation by the Review Committee regarding the disposition of culturally unidentifiable human remains in the possession of Effigy Mounds National Monument representing six individuals of Native American ancestry. The six individuals were excavated from three sites: three individuals from site number 13CTOB, Marquette Rock Shelter, Clayton County, IA; one individual from site number 13CT50, Marquette Yellow River Mound number 32 or Devil's Den Mound Group, Clayton County, IA; and two individuals from site number 13AM268, Waukon Junction Rock Shelter, Allamakee County, IA. On July 22, 2007, Effigy Mounds National Monument held a consultation meeting for 12 tribes. In attendance were representatives from the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; the Ho-Chunk Nation of Wisconsin; the Winnebago Tribe of Nebraska; the Upper Sioux Community of the Upper Sioux Reservation, Minnesota; the Shakopee Mdewakanton Sioux Community; and the Sac and Fox Nation of Oklahoma. NPS staff present at the consultation included Mr. Michael Evans, Midwest Regional NAGPRA Coordinator and Senior Cultural Anthropologist; Ms. Sharon Greener, Museum Technician, Effigy Mounds National Monument; and Ms. Phyllis Ewing. Phone and individual consultations were held with representatives of

the Lower Sioux Indian Community of Minnesota; Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; the Prairie Island Indian Community of Minnesota; Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; the Sac and Fox Nation of Missouri and Kansas and Nebraska; and the Sac and Fox Tribe of the Mississippi in Iowa. Ms. Ewing stated that during all consultations, tribal representatives agreed that the most important issue was that the human remains be reburied at a safe location while receiving proper respect and reverence.

Ms. Ewing stated that the NAGPRA Review Committee published recommendations regarding disposition of culturally unidentifiable Native American human remains. One example of an appropriate repatriation solution was to return the culturally unidentifiable human remains to an Indian tribe recognized as aboriginally occupying the area in which the human remains were discovered. Effigy Mounds National Monument and the surrounding area are located within an area that includes adjudicated lands of the Sac and Fox Tribe of the Mississippi in Iowa, the Sac and Fox Nation of Missouri and Kansas and Nebraska, and the Sac and Fox Nation of Oklahoma. Ms. Ewing stated she would like to repatriate the culturally unidentified human remains to the Sac and Fox Tribe of the Mississippi in Iowa as requested, with the full support of the 12 affiliated Indian tribes. Ms. Ewing stated that throughout the process it was of the utmost importance to the NPS staff and the affiliated Indian tribes that the human remains were treated with respect and returned to the earth to continue their spiritual journey.

Mr. Johnathan Buffalo (via telephone), Historic Preservation Director of the Sac and Fox Tribe of the Mississippi in Iowa, stated that the Sac and Fox Tribe of the Mississippi in Iowa believes in reburying human remains and is willing to do this repatriation although they are not claiming anything other than their treaty rights.

Mr. Patt Murphy, NAGPRA Representative for the Iowa Tribe of Kansas and Nebraska, thanked the Review Committee for letting him speak. Mr. Murphy stated he tries to honor his elders by saying the right thing. Mr. Murphy stated he was at the meeting to speak for the ones who cannot speak for themselves and to express the wishes of other Indian tribes who participated in this process. Mr. Murphy stated that during the consultation process the people who were the aboriginal people of the area decided that the Sac and Fox, the adjudicated people from the area, should have custody and decide what to do with items from the area. The Indian tribes in consultation unanimously agreed to ask the Sac and Fox to request the culturally unidentifiable human remains. The Sac and Fox graciously agreed, which the tribes appreciate. Mr. Murphy stated this was a simple process, which has worked well in the past. Mr. Murphy asked the Review Committee for a favorable consideration on the request.

Mr. George Garvin (via telephone), NAGPRA designee for the Ho-Chunk Nation, stated the Ho-Chunk Nation supported this repatriation to the Sac and Fox, although it was sad that the word of archaeologists was taken and the association of the Native people was not fully considered.

Review Committee Discussion

Mr. Steponaitis commended Effigy Mounds National Monument for their appropriate consultation process and the Indian tribes for coming together and working with Effigy Mounds National Monument. Mr. Steponaitis asked whether recent forensic work was done on the culturally unidentifiable human remains. Ms. Ewing stated the culturally unidentifiable human remains were reviewed by the Iowa State Archaeologist's Office in 2005. Mr. Steponaitis stated he was glad to hear that, because having recent forensic work was important in order to achieve due diligence. Mr. Murphy stated that others call them remains, associated, affiliated, culturally unidentifiable, laboratory specimen, teaching aides, but they are called one thing: relatives. Mr. Steponaitis stated he understood what Mr. Murphy was saying, however NAGPRA involves not just returning remains, but returning remains in the right way to the right people. Whenever remains are dealt with it is always very sensitive and emotional, but forensic work is important to determine accurately who the remains are and who to consult.

Review Committee Motion

Mr. Monroe made a motion for the disposition of culturally unidentifiable human remains in the possession of Effigy Mounds National Monument to the Sac and Fox Tribe of the Mississippi in Iowa. Mr. Kippen seconded the motion. The motion was adopted by unanimous vote.

Request for a Recommendation Regarding the Disposition of Culturally Unidentifiable Human Remains in the Possession of Michigan Technological University

Presentation of Issue

Ms. Susan Martin, Anthropologist and Archaeologist, Michigan Technological University, Houghton, MI, stated Michigan Technological University was requesting a recommendation from the Review Committee regarding the disposition of culturally unidentifiable human remains representing one individual removed from the surface of the modern Gros Cap Cemetery, Moran Township, Mackinac County, MI. The human remains were recovered in August 1977 during work to define the boundaries of a National Register cemetery and historic village area prior to federally funded road building. The human remains were examined by Dr. Terry Martin of the Illinois State Museum who concluded the human remains represented the partial skeleton of a woman, probably 30 years old or older. No physical data was present to indicate ethnicity or antiquity of the individual. Due to the antiquity of the Gros Cap area and its long-documented use as a cemetery extending to the 17th Century, Michigan Technological University concluded the individual was possibly Native American as it is a matter of record that the Odawa, Anishinaabe, Ojibway, and possibly Huron people occupied the area and likely used the cemetery as early as 1675.

The Little Traverse Bay Bands of Odawa Indians, the Sioux Tribe of Chippewa Indians, and the Bay Mills Indian Community of Michigan jointly requested disposition of the human remains. These three Indian tribes advised Michigan Technological University that they historically occupied the area of the Gros Cap Cemetery and agreed to the joint release. Michigan Technological University requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Little Traverse Bay Bands of Odawa Indians, the Sioux Tribe of Chippewa Indians, and the Bay Mills Indian Community of Michigan. Ms. Martin thanked the Review Committee for their help and consideration.

Mr. Cecil Pavlat, NAGPRA Representative for the Sault Ste. Marie Tribe of Chippewa Indians, stated he hand-carried a letter from the Michigan Anishinabek Cultural Preservation and Repatriation Alliance, representing all federally recognized Indian tribes and the two state historic groups in Michigan. The letter expresses the Michigan Anishinabek Cultural Preservation and Repatriation Alliance's support of the repatriation of the culturally unidentifiable human remains to the Little Traverse Bay Bands of Odawa Indians, the Sioux Tribe of Chippewa Indians, and the Bay Mills Indian Community of Michigan. Mr. Pavlat stated that due to the importance of their relatives, they traveled to the Review Committee meeting to seek the Review Committee's consideration of the issue, rather than appearing via telephone. Mr. Pavlat stated that both written and oral history supports the idea that the culturally unidentifiable human remains are Anishinabek. For example, red ochre has been used in Anishinabek burial practices for thousands of years and a red ochre site was found not far from the site. Mr. Pavlat stated that they believe the individual was related, but even if the individual was not related the Sault Ste. Marie Tribe of Chippewa Indians accepts the responsibility of stewardship for the land that it oversees.

Mr. Eric Hemenway, Anishinaabe, Repatriation Research Assistant for the Little Traverse Bay Bands of Odawa Indians, thanked the Review Committee for hearing this case and the National NAGPRA Office for providing information and guidance. Mr. Hemenway provided a report to the Review Committee, which included a brief history of the area of interest, the Indian tribes in the area, and the human remains themselves. Mr. Hemenway stated that Michigan Technological University has not determined if the human remains are Native, but has stated it was possible due to the antiquity of Gros Cap Cemetery and the occupation of Odawa and Ojibway near Gros Cap. Little Traverse Bay Bands of Odawa Indians, the Sioux Tribe of Chippewa Indians, and the Bay Mills Indian Community of Michigan make their request based on the available information. First, during fieldwork to redefine the boundaries of a cemetery, the human remains were found in a pile of dirt with no grave marker. Second, Gros Cap Cemetery was part of an area known as Michilimackinac or the Straits of Mackinac, which was well-established as the traditional homeland of the Anishinabek. Third, the Gros Cap Cemetery was one of the oldest continually used cemeteries in the United States, with burials dating back to as early as 1670. Since the Odawa and Ojibway have the longest-standing history of Indian tribes in the area, it was reasonable to conclude the human remains were from one of the tribes. In addition, old Odawa and Ojibway graves were likely to have been unmarked and outside the defined boundaries of the cemetery. Mr. Hemenway thanked the Review Committee for their consideration.

Ms. Winnay Wemigwase, Director of Archives, Records, and Cultural Preservation for the Little Traverse Bay Bands of Odawa Indians, stated that they were aware that Michigan Technological University has not made a determination if the human remains were Native American. However, the human remains sit in a place where they were never intended to be. Ms. Wemigwase said her people believe things happen for a reason, and their ancestors speak to them by having things fall into place. The fact that the involved Indian tribes agreed to the disposition, that the communities agreed to send their representatives to the Review Committee meeting, and the cooperation of Michigan Technological University show that this relative would like to be returned where it was intended to be, back into the ground.

Review Committee Discussion

Ms. Augustine commended the parties on their efforts and stated that she has also reburied human remains when it was not clear whether they were Native American, so the human remains wouldn't remain on shelves. Mr. Steponaitis stated this was the first time since he was on the Review Committee that a disposition was requested for human remains that were not identified as Native American. Mr. Steponaitis asked who else used the cemetery, what other cultural groups the human remains could be from, and if any other cultural groups have been consulted. Ms. Martin stated that by the mid-19th Century a number of groups used the cemetery, including Native people, non-Native people, people from French Canada, and people from Lower Michigan in the Straits area. The township established the Gros Cap Cemetery as the burial place for anyone. Historic cemetery organization differed from current practices. Ms. Martin stated that she consulted with the Michigan State Archaeologist and the Moran Township supervisor. Mr. Steponaitis asked if there were legal issues involved in a case coming before the Review Committee if it is not clear whether the human remains are Native American, and if they are non-Native what body of law would apply. Ms. Mattix stated this was a factual issue, whether or not the human remains were Native American, and her reading of one of the pieces of correspondence from university counsel indicates that the Michigan Technological University had reason to believe that the human remains were Native American. Mr. Simpson stated that if the human remains were not Native American then state law would apply.

Mr. Steponaitis stated that a red flag for him regarding the preponderance standard was the statement in the correspondence from the Michigan Technological University that the human remains are possibly Native American rather than probably Native American, and asked of the human remains in the cemetery what percentage were Native American. Ms. Martin stated she cannot answer the question at the present time and does not know whether it was possible to answer due to the complicated nature of determining ethnic identity through surnames and the reality of changing burial practices through time. Mr. Pavlat stated that many of the names in the cemetery that might be considered European descent he knows to be of Native descent. In addition, his tribe's burial practice was burial near the surface. Mr. Pavlat stated that his tribe believes in the idea of respectful reburial for all people. He was aware of the possibility that the human remains were not Native American, but the situation leans toward the human remains being Native American and they accept the responsibility to rebury the human remains respectfully.

Mr. Kippen stated that the standard of preponderance was a standard of more likely than not, and based on the material presented and statements by Ms. Wemigwase, Mr. Pavlat, and the other parties, Mr. Kippen believes that the standard of preponderance of the evidence has been met.

Mr. Jones thanked the parties for their presentations and the Indian tribes for their support. Mr. Jones stated that he speaks from two laws, NAGPRA and the unwritten law. Mr. Jones stated he was comfortable with the request because the questions being asked by the Review Committee must have been considered by the Indian tribes and resolved to their satisfaction.

Review Committee Motion

Mr. Kippen made a motion for the disposition of culturally unidentifiable human remains in the possession of Michigan Technological University to the Little Traverse Bay Bands of Odawa Indians, the Sioux Tribe of Chippewa Indians, and the Bay Mills Indian Community of Michigan. Mr. Monroe seconded the motion. The motion was adopted with five votes in favor of the motion with Mr. Steponaitis abstaining from the vote.

Mr. Steponaitis stated that although he did not oppose the disposition, he abstained because he felt some people who may have been related were not consulted. Mr. Monroe stated that while he agreed with Mr. Steponaitis's statement, it was very important that the process not be made so difficult as to potentially prevent future resolutions.

Request for a Recommendation Regarding the Disposition of Culturally Unidentifiable Human Remains in the Possession of Binghamton University

Presentation of Issue

Ms. Nina Versaggi (via telephone), Archaeologist and Director of the Public Archaeology Facility at Binghamton University, stated that based on their NAGPRA inventories and subsequent consultations with the Haudenosaunee Iroquois Nation and the Delaware Nation, Binghamton University received a request from the Mohawk Nation Council of Chiefs and the St. Regis Mohawk Tribe for culturally unidentifiable human remains representing at least two people from the Sidney Airport Site, Susquehanna Valley, NY. The Sidney Airport Site was first encountered by Binghamton University archaeologists in 1973 during an initial survey for Interstate 88. Despite recommendations by archaeologists that the site be avoided and preserved, the haul road for a gravel removal project destroyed about half of the site. Salvage excavations occurred and several storage pits, as well as a partial wall to a longhouse, were found. At approximately the same time, a local resident came forward and gave archaeologists human remains and fragments of pottery that he claimed were uncovered when the haul road was built. The pottery decoration suggests the site dates to around A.D. 1300. Since the ancestors of several Native people lived in the area, the human remains from the Sidney site cannot be affiliated with any specific historic group. However, the Haudenosaunee Iroquois people today say that the site falls near the border of aboriginal territories belonging to the Mohawk, Oneida, and Delaware.

Ms. Sheree Bonaparte (via telephone), Tribal Historic Preservation Officer for the St. Regis Mohawk Tribe, stated that the Mohawk Nation and the St. Regis Mohawk Tribe jointly request repatriation of these individuals and have assured the Delaware Nation and the Oneida that they will respectfully reinter these individuals.

Review Committee Motion

Mr. Kippen made a motion for the disposition of culturally unidentifiable human remains in the possession of Binghamton University to the Mohawk Nation Council of Chiefs and the St. Regis Mohawk Tribe. Mr. Steponaitis seconded the motion. Mr. Monroe called the question. The motion was adopted by unanimous vote.

Mr. Steponaitis stated that the case was very well presented and the documentation was right to the point on the issues. Ms. Worl suggested that maybe this case would be a good role model that could be placed on the Website as an example, if the parties were agreeable.

Request for a Recommendation Regarding the Disposition of Culturally Unidentifiable Human Remains in the Possession of Gulf Islands National Seashore

Presentation of Issue

Mr. Brinnen Carter (via telephone), Southeast Archaeological Center, Gulf Islands National Seashore, stated that he provided the Review Committee members with a Memorandum of Agreement, correspondence, and a briefing paper regarding this disposition to the Review Committee. Mr. Carter stated that inventories for the Gulf Islands National Seashore collection were completed and submitted by the 1995 deadline. Two of the inventories that were prepared at that time were published in 2001 for culturally affiliated human remains and funerary objects. Mr. Carter stated that in the past year Gulf Islands National Seashore initiated another round of consultations in an effort to repatriate culturally affiliated human remains and to deal with an inadvertent discovery. A Memorandum of Agreement was developed for repatriating and reburying culturally unidentifiable human remains that had been inventoried in 1995 but not repatriated.

Review Committee Discussion

Mr. Steponaitis stated that human remains from two NAGPRA contexts that did not meet the initial criteria of more likely than not Native American were removed from the inventory and he asked if those were excluded from the Memorandum of Agreement. Mr. Carter stated that they were surface finds turned in by visitors that were excluded from the Memorandum of Agreement because they were not associated with any American Indian site nor did they have any distinguishing American Indian physical anthropological observable traits. Mr. Steponaitis asked if there was a list of the tribes involved in the Memorandum of Agreement and their position regarding the memorandum. Mr. Carter stated that he had a phone contact log, which he reviewed with the Review Committee verbally. Mr. Steponaitis stated that the Review Committee members were provided with the briefing paper just prior to the meeting, and it includes reference to several tribes and the status of consultation with each of the tribes. Mr. Steponaitis stated that upon first glance it appears that the process was incomplete in that several tribes have yet to sign on to the Memorandum of Agreement or provide letters of support, which are typical in this type of case appearing before the Review Committee. Mr. Carter stated that he does not expect all of the tribes to sign on to the agreement and in fact several have already indicated that they will not sign on to the agreement.

Mr. Ken Carlton (via telephone), Mississippi Band of Choctaw Indians, stated that all tribes have been given an ample opportunity to participate in the process, and some tribes were in the process of deciding whether to become a signatory to the Memorandum of Agreement, but not whether they will support the Memorandum of Agreement.

Ms. Mattix asked Mr. Carter if he had the Solicitor's Office review the Memorandum of Agreement. Mr. Carter stated he did not. Ms. Mattix stated she had some additional items that could provide guidance for Mr. Carter which she would be willing to speak to him about outside of the meeting.

Mr. Kippen asked if this issue could be deferred until the second day of the meeting to provide the Review Committee members with more time to review the materials. Mr. Carter, as well as the other parties on the line, agreed to call back the following morning to conclude discussion on the issue. Mr. Kippen stated that he wanted to encourage Mr. Carter in this difficult work and stated that Mr. Carter had done a good job in putting this information together so far. Mr. Carter indicated he would fax a copy of the contact log to the Review Committee members that afternoon following the meeting.

Review Committee Motion

Mr. Kippen made a motion to postpone discussion of the issue until the following morning. Ms. Augustine seconded the motion. The motion was adopted by unanimous vote.

Review Committee Discussion – Continued

Mr. Steponaitis thanked Mr. Carter for the additional materials and stated that the parties were moving in a reasonable direction, but there were some qualitative differences between the information submitted in this case and the information normally submitted for these requests. Mr. Steponaitis recommended that the parties continue to work to put the finishing touches on the claim, with the advice of the Parks NAGPRA staff, the Solicitor's Office, and the National NAGPRA Program. Mr. Monroe expressed appreciation for the work that has been done and stated he agreed with Mr. Steponaitis's comments. Mr. Kippen stated he concurred with Mr. Steponaitis.

Mr. Carter asked for clarification on the standards that need to be met as far as tribal consultation, and explained that in some cases he had difficulty receiving responses from tribes, in one case attempting to contact a tribal representative 23 times before receiving a response. The Review Committee agreed that was too onerous a burden and stated that three to five contacts was a reasonable expectation. Mr. Monroe stated that the Review Committee was not asking the parties to start over in the consultation process, but to simply clear up the loose ends indicated in the documentation submitted to the Review Committee. Mr. Kippen stated that the Review Committee does not require a formal Memorandum of Agreement, simply information that there was agreement among the tribes involved and an attempt to contact the tribes.

Review Committee Motion

Mr. Steponaitis made a motion to defer action on this case until additional material was submitted, at the next Review Committee meeting. Mr. Kippen seconded the motion. Mr. Jones called the question. The motion was adopted by unanimous vote.

Request for a Recommendation Regarding the Disposition of Culturally Unidentifiable Human Remains in the Possession of Hastings Museum of Natural and Cultural History

Presentation of Issue

Ms. Teresa Kreutzer-Hodson (via telephone), Hastings Museum, Hastings, NE, stated Hastings Museum was requesting a recommendation from the Review Committee regarding the disposition of culturally unidentifiable human remains representing 11 individuals in the possession of the Hastings Museum to the Pawnee Nation of Oklahoma. Ms. Kreutzer-Hodson stated that the museum's records were incomplete, with little to no information on the human remains. The culturally unidentifiable human remains were reviewed by a forensic anthropologist from Wichita State, who concluded that most of the human remains were probably Native American or inconclusive. Markings that indicate cultural affiliation were not present. Ms. Kreutzer-Hodson stated that Hastings Museum consulted with a number of Indian tribes, including the Pawnee Nation of Oklahoma, the Omaha Tribe of Nebraska, the Ponca Tribe of Oklahoma, the Iowa Tribe of Oklahoma, and the Three Affiliated Tribes. The conclusion of the consultation was a request by the Pawnee Nation of Oklahoma to repatriate all human remains, whether or not they are associated with the Pawnee. The other tribes were in verbal agreement with this as long as they could participate in any ceremonies. The Sac and Fox Nation, the Ponca Tribe of Oklahoma, and the Pawnee Nation of Oklahoma sent letters of support, which were provided to the Review Committee.

Review Committee Discussion

Mr. Steponaitis stated that in the inventory provided to the Review Committee, one individual was described as Caucasian and one individual was described as African American. Ms. Kreutzer-Hodson stated that although those two individuals were described as Caucasian and African American, the forensic anthropologist could not identify the human remains to any ethnic group and concluded the remains were culturally unidentifiable. Mr. Steponaitis stated that the lack of information on whether the human remains were Native or not raises the question of whether the human remains should be included in a disposition before the Review Committee. In addition, if the human remains are not Native, should other communities be involved in the consultation process. Ms. Kreutzer-Hodson stated that without any information on the human remains, there was no indication of who to consult. The Pawnee Nation of Oklahoma has requested to rebury the human remains and the board of the Hastings Museum has approved the request. Mr. Steponaitis asked about the procedure if the human remains were not Native American. Ms. Kreutzer-Hodson stated that the county coroner could be asked to bury the human remains in a cemetery as an unidentified person. Mr. Monroe asked if there was any attribution to the information on the catalog records that these two individuals were described as Caucasian and African American. Ms. Kreutzer-Hodson stated there was no attribution, just very basic information.

Ms. Augustine stated that the process of Indian tribes coming together to work on this issue was happening, as shown in this instance. Ms. Augustine stated that if given a choice between a ceremonial burial by an Indian tribe or being buried in an unmarked grave, she would prefer that the human remains be repatriated to the Pawnee Nation, due to the ceremonies performed to honor the individuals and the lives they led.

Review Committee Motion

Ms. Augustine made a motion for the disposition of culturally unidentifiable human remains in the possession of Hastings Museum to the Pawnee Nation of Oklahoma. The motion died for lack of a second.

Review Committee Discussion

Mr. Monroe stated that he agreed with Ms. Augustine on all counts except for preponderance of evidence regarding these human remains. Mr. Kippen stated that other evidence could be presented regarding the history of the museum and the organizing principles of the collection. Ms. Kreutzer-Hodson stated that the museum was founded by Mr. Albert Brooking, who was fascinated from boyhood with collecting Native American artifacts. Mr. Brooking would accept artifacts from amateur archaeologists, often with poor provenience, and was especially interested in anything that had a sensationalized story. After the Hastings Museum was established, Mr. Brooking continued to accept artifacts with incomplete records.

Mr. Steponaitis stated that if these human remains were Native American then the proposed request was reasonable. However, if the human remains were not Native American then the advice of the Review Committee was unnecessary. Mr. Steponaitis stated that with the evidence submitted there did not appear to be a preponderance of the evidence that the human remains were Native American.

Mr. Monroe stated that based on his familiarity with the area of the country, the collection practices of the museum founder, the settlement patterns from the time period and the geographic location, one could make a case that the preponderance of the evidence would indicate that it was quite likely that for the most part human remains brought to the museum were Native American. Mr. Steponaitis stated that there was just no way to tell. Mr. Monroe stated he agreed that human remains could also be Caucasian or African American, but the standard was preponderance of the evidence, which based on the evidence in this case seems more likely than not that the human remains are Native American. Ms. Worl stated that the discussion would be deferred until the following day.

Review Committee Discussion – Continued

Mr. Francis Morris (via telephone), Repatriation Coordinator for the Pawnee Nation, stated that the tribes' intent was not to take advantage of NAGPRA, which deals with Native American human remains, but to deal with people who have not been claimed by anyone. Mr. Morris stated he understands Ms. Kreutzer-Hodson will contact the proper authorities concerning the possibility of reburying the remains under state law. Mr. Morris stated that he assumed these human remains were friends of the Pawnee Tribe, as they were found from ground near a Pawnee village or cemetery.

Ms. Teresa Kreutzer-Hodson stated she would like to present additional information in response to the prior discussion. Excluding the 11 individuals under consideration at the Review Committee meeting, 96.9 percent of the individuals held at the Hastings Museum were determined to be either definitely or likely Native American descent, two-thirds of those were from Nebraska, and of the remains from Nebraska, probably 98 percent were of Pawnee decent because they have come from traditional lands. Ms. Kreutzer-Hodson stated that regarding the 11 individuals under consideration, the forensic anthropologist stated that the human remains were from archaeological contexts, meaning they were not from recent graves. Ms. Kreutzer-Hodson stated that excluding the two individuals indicated as Caucasian and African American, the likelihood was pretty good that the other nine human remains were Native American.

Mr. Steponaitis stated that even with the additional information presented there was no clear evidence that the human remains were Native American, even by a preponderance standard. Mr. Steponaitis stated that he has no objection to the human remains being reburied, just not under NAGPRA. Other avenues for reburial were discussed during the meeting which might provide a simpler solution for reburial. Mr. Monroe stated that he agreed with Mr. Steponaitis's comments, but added that if additional or more amplified evidence were provided he would be willing to reconsider this issue under NAGPRA.

Review Committee Motion

Mr. Steponaitis made a motion that the Review Committee finds, based on the evidence before them, that they do not find the human remains to be Native American by a preponderance of the evidence. Mr. Monroe seconded the motion.

Mr. Monroe stated the Review Committee would certainly defer to Mr. Steponaitis as a trained archaeologist. Mr. Monroe stated the standards of evidence could be somewhat different among the Review Committee members, and he would be inclined to consider additional evidence that extends the basic information that was presented verbally at the meeting. The parties to this issue could extend the case for further consideration by the Review Committee or pursue alternative options, such as the process through the county coroner. Mr. Kippen stated he would be receptive to additional information and pointed out that the standard was a mere preponderance of the evidence. Ms. Augustine commended the Pawnee Tribe for offering repatriation, even not knowing if the human remains were Native American. Ms. Augustine stated that while bound by the law, this shows that they are working to do the right, compassionate thing, and she will keep the parties and these ancestral remains in her prayers. Mr. Jones stated that the Review Committee members were asked to bring their experience and spirituality to the table and the combination of all members needs to be heard. Mr. Jones stated that these human remains need to be returned to Mother Earth as soon as possible. Mr. Jones stated that he was present for NAGPRA, which goes against his own law. Mr. Jones stated that NAGPRA was not just about anthropology but the combination of all and he appreciates his colleagues' willingness to learn just as he continues to learn.

Mr. Monroe called the question. The motion was adopted by unanimous vote.

Criminal Enforcement of NAGPRA

Ms. Bonnie Magness-Gardiner, Art Theft Program Manager, Federal Bureau of Investigation (FBI), stated she was an archaeologist and manages the Art Crime Team at the FBI. The Art Crime Team deals with different types of cultural property crimes, involving multi-national groups, gangs committing traditional crimes, and travel between countries. The United States is a destination for this material due to the large number of collectors and institutions that acquire artifacts and fine art. Although objects of art have provenance, they do not have title documents and there was no artifact registry to help control illicit materials from entering the marketplace. The FBI has jurisdiction of art theft violations in the following areas: interstate transportation of stolen property, smuggling, the Cultural Property Implementation Act, theft of major artwork, mail fraud/wire fraud, theft of government property, Native American Graves Protection and Repatriation Act, and the Archaeological Resources Protection Act. Ms. Magness-Gardiner stated that the list is roughly in order of frequency with NAGPRA being second to last, with usually fewer than six NAGPRA cases per year.

Ms. Magness-Gardiner stated the Art Crime Team has 12 agents and one of her functions was to train agents on these materials. Each agent was assigned a region of the United States within which they perform investigations for the Art Crime Team. The Art Crime Team has been assigned three special trial attorneys through the Department of Justice. These attorneys provide backup for crimes for which a local prosecutor was unwilling to undertake prosecution. The Art Crime Team tries to keep the public informed that the FBI investigates and prosecutes cultural property crimes, including a Website listing the top ten art crimes. The Website also solicits information from the public, because some of the most successful investigations are generated by tips. The Art Crime Team works in cooperation with local law enforcement, as well as international law enforcement. Ms. Magness-Gardiner stated that since its inception in 2004, the Art Crime Team has retrieved 860 items at a value of over 130 million dollars.

For NAGPRA specifically, the FBI Art Crime Team has jurisdiction over cases of illegal trafficking, of people who knowingly sell, purchase, use, profit, or transport for sale or profit, human remains. Ms. Magness-Gardiner provided several examples of successful investigations involving NAGPRA items. One case in Santa Fe, NM, involved the return of hundreds of items. In that case, a sting operation over a number of years ultimately resulted in a gallery owner and dealer pleading guilty to NAGPRA, the Migratory Bird Protection Act, and the Bald and Golden Eagle Protection Act. In another case, the FBI Art Crime Team recovered the headdress of Geronimo, a venerated member of the Apache Tribe.

Mr. Kippen asked about the frequency of reports of potential trafficking issues and the process following a report. Ms. Magness-Gardiner stated she receives approximately six to ten references per year on NAGPRA and ARPA, of which investigations will be initiated in one or two. Ms. Magness-Gardiner stated that there was no mechanism for collecting information on all reported issues. Mr. Tarler stated information was available on matters referred to the United States Attorneys Office for prosecution and disposition of those matters, but statistics were not available on allegations of criminal violation of NAGPRA from all sources of law enforcement in the United States. Mr.

Monroe asked for the FBI's definition of art, artifacts and antiquities. Ms. Magness-Gardiner stated that, broadly speaking, the definition was items valued for either intrinsic artistic or cultural aspect of the item or age and context as an archaeological item. Mr. Monroe encouraged a broader definition of fine art or application of the term artifacts.

Mr. Ben Aleck, NAGPRA Coordinator, Pyramid Lake Paiute Tribe, described a criminal case where artifacts were taken from an ancient site and the people who were convicted received only a minimal sentence, due to the difficulty in determining a value for the petroglyph. Ms. Hutt stated that there were different aspects of activity to protect resources, and following the criminal case, the Forest Service executed a civil ARPA case against the individuals and exacted a penalty which they were currently seeking to collect. Mr. Kippen asked if the FBI would at some point consider these items as a priority due to their cultural value as compared to monetary value. Ms. Magness-Gardiner stated she was attempting to inform on a person-by-person level the value of Native American objects subject to NAGPRA, and stated that the best training she attended was the National Park Service/Department of Justice training on ARPA and NAGPRA which she hoped would be reinstated. Ms. Magness-Gardiner stated that the FBI considers issues on a priority basis, with terrorism as the number one priority.

Review Committee Motion

Mr. Kippen made a motion to have Ms. Mattix determine whether the NPS has concurrent enforcement authority with the FBI and, if not, what steps would be necessary to achieve concurrent enforcement authority. Mr. Steponaitis seconded the motion. Ms. Mattix stated that the NPS does not have concurrent enforcement authority. Ms. Worl asked for an analysis to be done and information presented at the next meeting. The motion was adopted by unanimous vote.

Enforcement/National Park Service

Mr. Greg Lawler, National Park Ranger, NPS, stated the NPS has a strong partnership with the National NAGPRA Program. Mr. Lawler works at NPS Headquarters for the Chief of Law Enforcement in Washington, DC. One of his roles was liaison between the National NAGPRA Program and field investigators. In addition, the NPS assists the National NAGPRA Program with funding for training and supports the education of law enforcement personnel and the Assistant United States Attorneys who help with prosecutions. Mr. Lawler stated that the NPS has criminal enforcement authority under Title 15 of the United States Code to conduct investigations of offenses against the United States committed in the National Park System. This authority can extend outside the NPS if there was a nexus to a national park.

Mr. David Tarler, Training and Civil Enforcement Coordinator, National NAGPRA Program, NPS, stated that the NAGPRA statute directed the Secretary of the Interior to promulgate regulations concerning the assessment of civil penalties against museums for failure to comply with the requirements of NAGPRA. The Secretary's responsibilities for NAGPRA civil enforcement were delegated to the Assistant Secretary of the Interior for Fish and Wildlife and Parks. Mr. Tarler and Mr. Palmer assist the Assistant Secretary with those responsibilities. Mr. Tarler stated there are eight ways a museum might fail to comply with the requirements of NAGPRA and any person may allege a failure(s). Since 1996, the NPS has received 110 allegations of failure to comply involving 37 museums. Of the 110 allegations, 29 allege a failure to consult with Indian tribes and/or lineal descendants and 26 allege a failure to complete an inventory. To date, the NPS has received no allegations of failure to inform recipients of pesticide treatment of NAGPRA-protected items. Since 2006, the NPS investigated 31 allegations of failure to comply involving 12 museums, of which 22 have been determined to be unsubstantiated and 9 allegations involving 8 museums have been substantiated. In Fiscal Year 2006 two museums were found to have failed to comply with the requirements of NAGPRA. Each museum was assessed and paid a penalty, and each penalty was mitigated as each museum came into compliance with NAGPRA prior to the assessment of the penalty. Mr. Tarler stated that as a result of the initial experience of enforcing NAGPRA civilly, he was optimistic that the civil penalty process can serve NAGPRA's overarching goal of providing both legal and physical repose to Native ancestors and NAGPRA cultural items.

Mr. Bob Palmer, Law Enforcement Officer, NPS, Effigy Mounds National Monument, thanked the Review Committee for the opportunity to make his presentation. Mr. Palmer stated that in Fiscal Year 2007, a total of 18

allegations involving 9 different museums were investigated, of which 11 were determined to be unsubstantiated and 7 allegations involving a total of 6 museums were found to be substantiated. In addition, a number of informal discussions and new cases came in during the year. Mr. Palmer stated that during civil investigations, sometimes criminal elements become apparent, which then become the responsibility of other agencies. Mr. Palmer stated investigations of criminal violations need to be closed before the civil penalty violation investigations can continue.

Mr. Steponaitis thanked Mr. Lawler, Mr. Tarler, and Mr. Palmer for their hard work. Mr. Steponaitis asked why only two of the nine museums found to have failed to comply in 2006 were assessed a penalty and for a summary of the penalty process. Mr. Tarler stated the other seven cases from 2006 were still in process. Mr. Tarler stated that the regulations provide for a base penalty amount of 5,000 dollars or .25 percent of the museum's budget, whichever is lower. The regulations take into account commercial, archaeological, or other kinds of values, costs incurred by the victim, and mitigating circumstances. If the violation continues after the civil penalty assessment, a penalty of up to 1,000 dollars per day may be assessed against the museum. Mr. Steponaitis asked for a characterization of the types of allegations. Mr. Palmer stated the primary types of allegations involve inventories, either no submission or incorrect data, transfer of NAGPRA items in an attempt to circumvent NAGPRA, and failure to consult. Mr. Kippen asked what happens in cases where a potential criminal offense was discovered during a civil penalty investigation. Mr. Palmer stated he would cease his civil investigation and refer the case to the FBI. Mr. Kippen asked if there was a formal process to monitor referrals. Mr. Palmer stated that beyond personally tracking the cases by telephone, he did not know of a process. Ms. Worl recommended that the Review Committee include a section on their Website which would provide the public with an educational aspect for civil penalties, as it was a difficult subject.

Status of Regulations

43 CFR 10.13, Future Applicability

Mr. stated that 43 CFR 10.13, Future applicability, was published in the Federal Register as a final rule on March 21, 2007, and went into effect on April 20, 2007. 43 CFR 10.13 establishes rolling deadlines for completions of summaries and inventories regarding four situations; for a museum or federal agency that acquires new holdings or collections, for a newly acknowledged federally recognized Indian tribe, for an institution receiving federal funds for the first time, and for an institution that decides to amend a previous decision. The first deadline established in the regulation for the receipt of inventories was October 20, 2007, for any museum or Federal agency that acquired new holdings or collections.

43 CFR 10.11, Disposition of Culturally Unidentifiable Human Remains

Mr. McKeown stated that regulations for 43 CFR 10.11, Disposition of culturally unidentifiable human remains, have been in development for quite some time. The Review Committee worked quite extensively on the development of recommendations for this section. Three separate drafts of the recommendations were distributed for public comment from 1996 to 2000, and the final recommendation of the Review Committee was issued in 2000. The Review Committee considered an earlier draft of the proposed rule at its meeting in April, 2000, and a revised draft at its meetings in June and November, 2002.

Mr. McKeown stated that the final rule for 43 CFR 10.11 had just been published in the Federal Register during the Review Committee meeting (October 16, 2007), provided Review Committee members with a copy of the proposed rule, and gave a brief summary of the document.

43 CFR 10.7, Disposition of Unclaimed Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony

Mr. McKeown stated that 43 CFR 10.7, Disposition of unclaimed human remains, funerary objects, sacred objects or objects of cultural patrimony, deals with situations of inadvertent discoveries or excavations on Federal or tribal land after November 16, 1990, for which there are no lineal descendants, the human remains or objects did not come off of tribal land, and there has been no claim by an Indian tribe or Native Hawaiian organization based on cultural affiliation, aboriginal land, or cultural relationship. Regarding this reserved section, the National NAGPRA

Program has held three consultations with Indian tribes, museums, and national scientific organizations. In addition, following the advice of the Review Committee at the previous meeting, the National NAGPRA Program held a dialogue to identify points of commonality between the representatives of Indian tribes, museums, and national scientific organizations. The dialogue was held the day prior to the Review Committee meeting (October 14, 2007) and was moderated by Mr. Manuel Pino.

Summary and Discussion of October 14, 2007 Dialogue Regarding the Disposition of Unclaimed Cultural Items [43 CFR 10.7]

Mr. Manuel Pino, Pueblo of Acoma, Instructor at Scottsdale Community College, stated he was asked by the NPS to act as a moderator in a dialogue between representatives of Indian tribes, museums, and scientific organizations. The dialogue meeting was attended by approximately 22 individual Native Americans representing 13 Indian nations. Museums and national scientific organizations were represented by individuals from the Society for American Archaeology, the Colorado State Historical Society, and the University of Colorado Museum at Boulder.

Mr. Pino reviewed the list of topic questions included for comment in the Federal Register notice announcing the dialogue.

- (1) How should the regulations address the distinctions between:
 1. human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which ownership or control is with the lineal descendant or an Indian tribe or Native Hawaiian organization on whose lands the cultural items were discovered?
 2. human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which an Indian tribe or Native Hawaiian organization has stated a claim based on cultural affiliation, aboriginal land, or cultural relationship?
 3. human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which a nonfederally recognized Indian group has stated a claim based on a relationship of shared group identity?
 4. human remains and associated funerary objects remaining in Federal care for which no claim has been made?
- (2) Do current regulations regarding the curation of federally owned and administered archaeological collections [36 CFR 79] adequately address the management, preservation, and use of human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in federal care?

Mr. Pino summarized the discussion and items of consensus. Tribal representatives agreed that care of human remains with lineal descendants on or off tribal land should be done in consultation with the Indian tribes before any analysis, research, or investigation is conducted. For human remains where a claim has been submitted based on cultural affiliation, aboriginal land, or cultural relationships, consultation with the Indian tribes must take place. Further analysis, research or investigation of these human remain or objects must be with consent of those Indian tribes only. If there is no claim, the treatment of the human remains must be with utmost respect and no consultation due to lack of a claim or ownership should be considered.

Representatives of institutions, particularly the Society for American Archaeology, felt there should be no statute of limitations on NAGPRA claims. Curation should continue in accordance with applicable law unless or until a lineal descendant or group authorized by NAGPRA directs otherwise. All parties should be encouraged to communicate with applicable institutions regarding their rights and interests.

Mr. Pino stated that the Indian tribes in the state of Colorado work successfully together under a Memorandum of Understanding through which the Ute Mountain Ute Tribe takes the lead as the host tribe in consultation discussions regarding Indian tribes from the Northern and Southern Plains. During their presentation, the tribes stated that due to lack of tribal resources, it would be helpful if NAGPRA's applicability would extend to state museums in Colorado with which the tribes have had positive consultation. Another tribal recommendation was the formation of regional coalitions to discuss and address the issue of unclaimed objects and human remains.

Mr. Pino stated that there was agreement that human remains and objects are to be housed according to specifications determined through consultation with the culturally affiliated group until the culturally affiliated

group makes a decision regarding the permanent disposition of the human remains and objects. If the culturally affiliated Indian tribe does not wish to repatriate, they must be consulted on proper and respectful housing for the human remains or objects. This raises the issue of how some facilities do not have the available monies to adequately house and protect the human remains and sacred objects, which is a funding issue within NAGPRA. For situations when a nonfederally recognized Indian group has stated a claim based on relationship of shared group identity, the tribes emphasized greater consultation and the possible formulation of regional working groups. Regarding human remains and cultural items for which no claim has been made, the tribes recognized and respect that all human remains and sacred objects have spiritual significance associated with the cultural and religious beliefs of American Indian people, and in addition some tribes may not have the resources to place a claim or provide a repository.

Mr. Pino stated there was consensus among those present that all human remains and sacred objects deserve to be treated with respect and dignity at all times. Separation of human remains from associated funerary objects should be avoided, as well as any unnecessary disturbance, handling, or physical modifications of human remains and sacred objects.

Regarding question number (2) in the Federal Register notice, the Salt River Pima-Maricopa Indian Community made a recommendation that the term “owned” should not be used and should be replaced with “house” or “housed.”

Representatives of museums emphasized that there was a necessary balance that needs to be established between the legitimate interests of lineal descendants, Indian tribes, and Native Hawaiian organizations recognized in NAGPRA and the legitimate interests of the scientific and museum communities and the larger public. Cultural items should be documented in accordance with professional standards in order to contribute to the process of accurately identifying parties entitled to exercise rights under NAGPRA and to contribute to collective knowledge about the human past. Federal curation regulations set forth in 36 CFR 79 adequately and appropriately address the management, preservation, and handling of human remains and other cultural items in federal care.

Tribal representatives emphasized to federal agencies that the inherent sovereignty of Indian people needs to be exercised and respected to a greater extent. Some discussion centered around how to respond to situations where a tribe’s spiritual foundations or traditional-based knowledge do not have ceremonies for reburial and repatriation who bears the burden of responsibility for care and possible reburial.

Recommendations Regarding the Disposition of Unclaimed Cultural Items (43 CFR 10.7)

Mr. McKeown reviewed the materials contained in the Review Committee members’ binders, including a copy of the August 13, 2007 Federal Register notice soliciting comments from Indian tribes, museums, national scientific organizations, and the Review Committee on 43 CFR 10.7. The notice contained information on the October 14, 2007 consultation and dialogue on this issue, moderated by Mr. Manuel Pino, in addition to questions for consideration, which were summarized by Mr. Pino in his presentation. Mr. McKeown stated that the National NAGPRA Program was asking for the Review Committee’s recommendations as a whole at the meeting and would accept individual comments by the Review Committee members anytime prior to December 1, 2007.

Ms. Worl stated she attended the consultation and dialogue meetings and would like to offer some recommendations for consideration by the Review Committee.

1. Human remains and funerary objects should remain separate from other cultural objects and should be subject to special care and handling. Mr. Steponaitis suggested that wording be added that the recommendation be implemented in consultation with tribes and include wording to the extent possible, as some repositories may face space or other constraints. The Review Committee members agreed with the recommendation.
2. Study or documentation of the unclaimed human remains and cultural items should proceed only with consent of the lineal descendant or Indian tribe on whose land the cultural items were excavated or discovered or after consultation with the culturally affiliated or culturally related tribes. Mr. Steponaitis stated that documentation was necessary to help determine cultural affiliation, especially for unclaimed human remains. Ms. Worl stated she heard tribes express concern during the consultation about intrusive study. Mr. Monroe stated it was important to draw a distinction between baseline documentation and the

- use of intrusive studies. Ms. Worl offered an amended recommendation; baseline documentation, such as number of individuals, age, sex, should be recorded of the unclaimed human remains and cultural items. Intrusive study of the unclaimed human remains and cultural objects should proceed only with consent.
3. No time limit should be imposed and human remains and cultural items should remain in federal care until such time as a lineal descendant or a tribe submits a claim. Mr. Steponaitis stated he agreed with the recommendation. Mr. Kippen stated he was concerned that with no time limit federal agencies would not be diligent and would not do what they need to do to get the items returned. Ms. Worl stated she was against a time limit because there are many reasons a tribe may be unable to submit a claim. Mr. Kippen stated that in situations with no lineal descendant or a claimant who qualifies to come forward there should be a deadline, otherwise he agrees with the recommendation.
 4. In order to facilitate claims, federal agencies should hold consultations with the lineal descendants and tribes or the Native Hawaiian organizations on whose tribal lands such objects or remains were discovered and other tribal entities that may have a cultural affiliation or relationship with the human remains or cultural objects.
 5. Federal agencies should compile a database of unclaimed human remains and cultural objects for their respective region and forward it to the National NAGPRA Office to compile and publish a national database.
 6. Insofar as the management and preservation of human remains and cultural objects remaining in federal care, federal agencies should be guided by the protocol presented to the Review Committee by the Colorado Historical Society developed in consultation with tribes. Ms. Worl stated she was fine with including a reference to 36 CFR 79 but felt that the protocol went beyond the requirements of 36 CFR 79. Mr. Steponaitis stated he was comfortable with referencing 36 CFR 79 but not the protocols, as the final version was not available for the Review Committee's review. Ms. Worl suggested amending the recommendation to read "federal agencies should be guided by 36 CFR 79," with the possibility of including the protocol after finalization. Ms. Augustine noted that there were some tribes that wanted to change wording in 36 CFR 79, for example, replacing the word "owned" with "housed."

Mr. Monroe asked for clarification on the language in the statute, how a determination can be made that sacred objects were objects of cultural patrimony absent consultation with either lineal descendants or a culturally affiliated tribe. Ms. Worl stated that although not required, some federal agencies and museums do consult with nonfederally recognized groups by choice. Mr. McKeown stated there have been situations where objects of cultural patrimony were identified on federal land after November 16, 1990.

As a general statement, Ms. Worl stated federal agencies should be responsive to the claims of nonfederally recognized Indian groups, if it has a cultural relationship of shared group identity with the human remains or cultural objects remaining in federal care that were excavated or discovered on federal or tribal lands after 1990. Ms. Worl stated that while she feels that the Review Committee should do nothing to undermine the federal trust relationship and the sovereignty of tribes, this was a human rights issue. Ms. Worl stated there was no threat to Indian sovereignty by saying that a federal agency should be responsive to nonfederally recognized Indian groups. Mr. Steponaitis stated he agreed with Ms. Worl's statement but wants to ensure that the language of the Review Committee does not get agencies into any legal trouble. Mr. Simpson stated this issue has been under consideration by counsel and language was included in the preamble to the proposed regulations for the disposition of culturally unidentifiable human remains to address the issue. Ms. Worl stated she kept her language purposefully vague.

Mr. Monroe stated that he has no objection to the recommendations discussed at the meeting, but stated that due to the complicated language in this section of the statute he would like to reserve the Review Committee's ability to deal with this section in more detail. Ms. Augustine stated she agreed with Mr. Monroe's comments. Mr. McKeown stated the Review Committee members can comment individually until December 1, 2007, and can schedule the issue for further discussion as a committee at the next meeting if desired. Mr. Jones stated he would like to have time to review and consider the material, and he stated that further discussion was important due to the variance in the scientific world versus the cultural world. Mr. Kippen stated he would like further discussion to develop criteria on what was meant by respectful treatment. The Review Committee members agreed to approve the basic recommendations in principle and to bring them back for further discussion at the next meeting.

Review of Proposed Regulations Regarding the Disposition of Culturally Unidentifiable Human Remains (43 CFR 10.11)

(Mr. Goodman was present for this portion of the meeting via teleconference.)

Review of Regulations

Ms. Mattix reviewed the process of developing regulations. The Administrative Procedures Act governs the promulgation of this regulation, which was currently at the stage of a proposed rule. The formal comment period on the proposed rule was in effect through January 14, 2008, to allow public comment and comment by individual Review Committee members. Following the formal comment period, the DOI would not be allowed any ex parte communications with any outside parties or members of the public on the rule. The DOI would then consider all comments in the development of the final rule, with no imposed time period.

Mr. McKeown summarized the history and substance of the proposed rule on 43 CFR 10.11. The proposed rule was published in the Federal Register on October 16, 2007, during the Review Committee meeting. Some of the responsibilities of the Review Committee as outlined in the statute were to consider the issue of the disposition of culturally unidentifiable Native American human remains, to create an inventory of those human remains, and to develop a process for the disposition of culturally unidentifiable human remains. The process to develop the proposed rule began in 1994 when the Review Committee held the first of a series of meetings and consultations on the rule with Indian tribes, Native Hawaiian organizations, federal agencies, and museums. From 1994 to 2000, the Review Committee developed three separate drafts of its final recommendation. Each of the drafts was circulated to and comments solicited from several thousand individuals, museums, federal agencies, Indian tribes, and Native Hawaiian organizations. Comments received for each of the three drafts were reviewed by the Review Committee and changes made to the drafts. During the same time period, the Review Committee was able to develop a case-by-case consideration of the disposition of culturally unidentifiable human remains. Not including those heard at the current meeting, 43 cases were considered by the Review Committee and various recommendations were made regarding the disposition of culturally unidentifiable human remains. In each case, the Review Committee's recommendation to the institution was put forth by the Secretary of the DOI, which is one way the regulations allow for disposition of Native American culturally unidentifiable human remains.

In 2000 the Review Committee issued its final recommendations which were published in the Federal Register.

Mr. McKeown summarized the key points of the Review Committee's recommendations.

- Identified several categories of culturally unidentifiable human remains.
- Emphasized the importance of documentation in making decisions regarding the disposition of culturally unidentifiable human remains.
- Identified three guidelines to guide museums and federal agencies in that disposition:
 1. Human remains should be treated with respect,
 2. There may be different dispositions because of the different nature of how some of these human remains have been collected, and
 3. The Review Committee was identified as having an important part of the process.
- Considered two different models of how the process might go forward:
 1. One based on joint recommendations from museums, Indian tribes, and Native Hawaiian organizations, and
 2. One focused on the establishment of regional coalitions that might also facilitate the process.
- Recommended completion of the inventory of culturally unidentifiable human remains, which ultimately was established as a database on the National NAGPRA Website.

Mr. McKeown stated that the proposed rule modifies or adds five sections in the rule.

1. Section 10.1 includes additional wording in response to previous litigation, "The final denial of a request of a lineal descendant, Indian tribe or Native Hawaiian organization for the repatriation or disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony under and in compliance with the Act of this part constitutes a final agency action under the Administrative Procedures Act."
2. Section 10.2(e)(2) was modified and refers to human remains and associated funerary objects in museum or federal agency collections for which no lineal descendant or culturally affiliated Indian tribe or Native

- Hawaiian organization has been identified. A section clarifying some terminological usage was included to deal with three different terms; custody, repatriation, and disposition.
3. Section 10.9 was modified to remove language that previously required museums and federal agencies to obtain direction from a court of competent jurisdiction or from the Secretary of the Interior to have a disposition of culturally unidentifiable human remains. In addition, statutory text referring to documentation was added that had inadvertently been omitted from the regulations in 1995.
 4. Section 10.11, Disposition of culturally unidentifiable human remains:
 - a. Section (a) is a general statement.
 - b. Section (b) deals with consultation that would occur between museums and federal agencies and the relevant Indian tribes or Native Hawaiian organizations regarding the proposed disposition of culturally unidentifiable human remains.
 - c. Section (c) is a priority listing of various kinds of relationships that might be identified between particular culturally unidentifiable Native American human remains and either a federally recognized Indian tribe or Native Hawaiian organization or in some cases a nonfederally recognized group or other type of disposition. The first two subsections are mandatory sections as they relate to Indian tribes or Native Hawaiian organizations. The third subsection deals with other types of disposition and also includes whether associated funerary objects are included or not.
 - d. Section (d) deals with notification and applies the same type of provisions that would apply to culturally affiliated human remains, such as publication of a Federal Register notice.
 - e. Section (e) deals with disputes and identifies the Review Committee as a possible mechanism to resolve disputes regarding the disposition of culturally unidentifiable human remains.
 5. Section 10.12, civil penalties, states that civil penalties might attach if a museum failed to offer to have a disposition of unidentifiable human remains pursuant to these regulations or if a museum failed to do a summary or an inventory by the new deadlines that are established pursuant to these regulations.

Mr. McKeown stated that commenters were asked to focus on two issues in this rule, the meaning of the term cultural relationships and the appropriateness of the use of the priority structure.

Review Committee Discussion

Ms. Worl thanked Ms. Mattix and Mr. McKeown for their review and stated that the Review Committee had until January 14, 2008, to offer formal comment. Mr. Kippen thanked Ms. Mattix and Mr. McKeown for providing the rule and offered congratulations on its publication. Mr. Kippen recommended that the Review Committee take time to review the rule.

Review Committee Motion

Mr. Kippen made a motion to hold a teleconference in early January 2008 to offer comments on the proposed rule. Mr. Monroe seconded the motion.

Review Committee Discussion

Mr. McKeown stated the Review Committee could constitute a working subcommittee to develop wording for discussion. Mr. Steponaitis asked for clarification of communications the working group could have with the National NAGPRA Program as far as questions. Ms. Mattix stated that the staff and counsel could provide clarifications or answers to questions. Mr. Simpson stated that any communications outside of the teleconference would not be on the record as a formal comment. Ms. Worl asked that all communications with the staff or counsel be done with the working group as a whole. Ms. Worl asked Mr. Monroe to Chair the subcommittee. Mr. Kippen, Mr. Goodman, and Mr. Steponaitis volunteered for the subcommittee. Mr. Monroe asked Mr. Steponaitis to be the contact person for any written communications with the National NAGPRA Program staff or counsel. Mr. Steponaitis recommended that extra time be allowed for the teleconference and that the National NAGPRA Program consider a telemeeting or internet video or audio stream. Ms. Worl recommended, that with budget in mind, the National NAGPRA Program look into the possibility of a face-to-face meeting, video conferencing, and a teleconference. Ms. Hutt stated that the publication of this regulation was a watershed moment in the progress of the National NAGPRA Program, and she appreciated the hard work by everyone involved. Ms. Worl recommended

that the National NAGPRA Program try to offer opportunities, particularly for the tribal community, for a review of the regulations similar to what was provided at the meeting.

Cultural Affiliation Notice Project

Ms. Amy Kolakowsky, anthropology student at Northern Arizona University, thanked the staff of the National NAGPRA Program and NPS for the opportunity to intern with the National NAGPRA Program during the summer of 2007 and the Review Committee for the opportunity to present her project. The purpose of the Culturally Affiliated Notice Project was to assess the status of culturally affiliated human remains and associated funerary objects held in museum inventories. Due to limited time frame, the project analysis was focused mainly on museums in the southwestern United States. The analysis was conducted through comparisons of inventory files with published Notices of Inventory Completion from 127 museums. A comparison was made between the minimum number of individuals (MNI) and associated funerary objects (AFO) housed at each museum compared with the MNI and AFO represented in each museum's published Notices of Inventory Completion. Ms. Kolakowsky used this information to determine how many museums reported MNI and AFO in inventories but not in a Notice of Inventory Completion. Ms. Kolakowsky summarized her findings by state and as a total for the project. Of the 127 museums considered in the study:

- 12 museums reported the same number of MNI in their inventories as were represented in their published Notices of Inventory Completion;
- 11 museums reported the same number of AFO in their inventories as were represented in notices;
- 43 museums had MNI in their inventories that were not represented in notices;
- 17 museums had AFO in their inventories that were not represented in notices;
- 11 museums had more MNI represented in notices than in their inventories;
- 9 museums had more AFO represented in notices than in their inventories;
- 54 museums had no MNI reported in inventories or notices; and
- 90 museums had no AFO reported in inventories or notices.

Ms. Kolakowsky listed possible reasons for the discrepancy between inventories and published Notices of Inventory Completion. Museums with more MNI or AFO in their inventories than represented in notices may have affiliated inventories for which they have not yet published a notice or the notice may be pending publication. Museums with more MNI or AFO represented in notices than inventories may have located additional inventory for which they published a notice or may have affiliated culturally unidentifiable inventory but not yet updated their inventory records with the National NAGPRA Program. In addition, there may be problems with the inventories themselves. For example, a lack of standardized inventory procedures at the time the original inventories were due has caused difficulty in obtaining consistent counts.

Ms. Kolakowsky stated that based on the results of the project, several actions could be recommended.

- Museums that have submitted an inventory of culturally affiliated human remains or associated funerary objects but have not yet published a Notice of Inventory Completion should be immediately notified that failure to publish the required notice constitutes failure to comply with NAGPRA.
- Additional guidelines or regulations should be considered to standardize the inventory format to make the data more accessible.
- Entering the inventories into an electronic database would help make them better organized and easier to update. Duplicate records would become obvious, and inventory updates would be easier to manage.

Ms. Worl asked that a copy of the Cultural Affiliated Notice Project be made available to the Review Committee members and placed on the Website. Mr. Steponaitis commended Ms. Kolakowsky on her report and stated that he was responsible for compiling and submitting an inventory and was familiar with some of the issues described by Ms. Kolakowsky, such as lack of standardized inventory procedures. Mr. Steponaitis stated that a few years ago the backlog in notice publication was addressed and notices with a live claim were given priority, but there was some innuendo that something was being hidden. Mr. Steponaitis stated it was nice to see the backlog going down, but the backlog was an almost unavoidable circumstance of the NAGPRA process that resulted in the submission of all inventories at one time. Ms. Hutt stated that of the notices dating back to 1995 through 1997 there were still approximately 100 notices that are pending publication. Ms. Hutt stated that these notices have not failed to publish

due to lack of time in the National NAGPRA Program but because the originating institution would not clear the notice for publication. Ms. Hutt stated that Ms. Lavallee worked extremely hard to clear the backlog of old notices, reducing the backlog from 300 to 100. Ms. Hutt stated that the National NAGPRA Program was working to notify these originating institutions by letter that they have 30 days to indicate action toward publication within the next six months or the notices will be deemed withdrawn. Ms. Hutt stated that the notices belong to the originator and are published upon their request. Mr. Monroe recommended that the letter to these institutions include a statement that the institutions would face civil penalties if they do not comply. Ms. Hutt stated she would update the Review Committee on the status of the notice backlog at the next meeting.

Mr. Kippen asked if the National NAGPRA Program could report to the Review Committee, at an upcoming meeting, on the costs of implementing the recommendations put forth by Ms. Kolakowsky. Ms. Worl thanked Ms. Kolakowsky for her report.

Makah Tribe/National Association of Tribal Historic Preservation Officers Project **Assessing Federal Compliance**

Background Information

Ms. Bambi Kraus, National Association of Tribal Historic Preservation Officers (NATHPO), stated she and Mr. James Riding In were presenting the preliminary findings and recommendations for their project titled "Federal Agency Compliance." The research team included Ms. Kraus, Mr. James Riding In, Arizona State Museum, Ms. Pemina Yellow Bird, and Ms. Patricia Zell, recently retired from the Senate Indian Affairs Committee. Ms. Amy Kolakowsky provided assistance on the CUI database. The methodology for the research consisted of online surveys for both Indian tribes and federal agencies. The tribal survey was short and offered an option of additional questions for willing participants. The research team reviewed the CUI database, court records, and a literature search. Mr. Riding In wrote three case studies that involved federal agencies and tribes. Ms. Kraus stated that for the sake of saving time, any reference to tribe would mean Indian tribes, Alaska Native corporations and villages, and Native Hawaiian organizations.

Ms. Kraus stated that the research team reviewed information provided by Ms. Kolakowsky for federal agencies similar to the information Ms. Kolakowsky presented to the Review Committee for museums. In summary, Ms. Kraus stated the research team identified deficiencies that need to be strengthened for the overall process, which will be addressed in the recommendation section of the report. One issue was significant differences in how inventories were interpreted and changed through the years. Ms. Kraus stated that the research team found the CUI database to be cumbersome and time-consuming, only allowing a search of one federal agency at a time. The database does not clearly indicate when tribes were consulted nor if federal agencies met their burden of proof before conducting scientific study.

Tribal Survey Responses

Ms. Kraus reviewed the tribal survey responses received as of September 31, 2007. Ms. Kraus stated the tribal responses were anonymous, unless the tribes gave prior approval to release information. The majority of tribes responding indicated they had dealings with federal agencies. Most indicated experience with 1 to 5 federal agencies, although some reported dealing with more than 25 federal agencies. Most tribes reported that they were dealing with federal agencies regarding human remains and funerary objects, followed by sacred objects and objects of cultural patrimony. The response to whether tribes have joined a coalition to recover NAGPRA items from a federal agency indicated how willing Native people were to join a coalition. Some tribes indicated the NPS National NAGPRA Program has been effective, while some indicated it has been ineffective. Quite a few tribes indicated they had a NAGPRA-related disagreement or legal conflict with a federal agency.

When asked whether NAGPRA has been effective, the majority of tribes indicated an average response. The response to the question of whether federal agencies have made a good-faith effort to determine cultural affiliation shows how tribal responses were beginning to indicate that improvements need to be made. When the tribes were asked if they were aware of any culturally affiliated human remains that had not been published in a notice, several tribes indicated yes, which was an indicator that something was occurring in the NAGPRA process that does not

benefit the overall ability of tribes to repatriate human remains or cultural objects. The large response of “don’t know” when asked if a federal agency had changed designations of NAGPRA items in their control or possession from culturally affiliated to unaffiliated without consultation, which was mandated by law, indicates a disconnect between federal agencies and tribal involvement. Two tribes indicated federal agencies had authorized scientific study against their wishes, which was in direct opposition to the law.

When asked if federal agencies act respectfully in the treatment and repatriation of culturally affiliated NAGPRA items, some tribes answered rarely, which was of concern. Two tribes indicated an incident of inadvertent discovery in which the federal agency failed to contact the tribe and a number of tribes stated they did not know, which would indicate a lack of working relationship or collaboration between the federal agency and tribe. Two tribes stated a federal agency failed to inform recipients of pesticide treatment on repatriated items, which was mandated, and a large number indicated they did not know. A majority of tribes indicated that distance was a factor in whether a tribe was able to attend Review Committee meetings. The tribes were asked if they received financial assistance to support their work, independent of federal grants, and how much the tribes provided. The majority of tribes felt they had a three-to-one ratio of tribal contribution to federal contribution.

Federal Survey Responses

Ms. Kraus reviewed the federal survey responses. Ms. Kraus stated that due to a lack of a source for federal agency NAGPRA contacts, the research team sent the federal survey letters and Website links to all 36 Federal Preservation Officers and 41 subparts of the Federal Preservation Officers and received 15 responses. Not one respondent indicated they worked full-time on NAGPRA issues for their federal agency. The majority indicated they have not received training on NAGPRA, nor do new employees tasked with implementing NAGPRA receive training. When asked what policies and procedures have been developed and implemented, none indicated pesticide or contaminant policies, two had a policy or procedure on cultural sensitivity and two had a policy on monitoring and enforcement. The other policies included step-by-step protocols on tribal consultation, intentional excavations, and inadvertent discoveries.

When asked to indicate the top two positive factors for complying with NAGPRA, federal agencies indicated knowledge of with whom to consult, knowledge of the Act and policies, and other. When asked to indicate the top two negative factors for complying with NAGPRA, federal agencies indicated lack of administrative support, inadequate and available resources, poorly trained staff, and uncertainty with whom to consult. When asked whether federal agencies had completed inventories and summaries, a large number responded with N/A, stating they did not have to comply with NAGPRA. Ms. Kraus stated the Federal Communications Commission (FCC) indicated they did not have to comply with NAGPRA, but tribal representatives present in the room have had requests to conduct Section 106 clearances for FCC cell tower permits, and whatever NAGPRA compliance issues would come under that. So this indicates a disconnect between some federal agencies and their NAGPRA applicability. When asked what percentage of their NAGPRA collection was located in nonfederal repositories for curation purposes, the majority of federal agencies indicated other, indicating that this might be unclear. Mr. Riding In stated that Tennessee Valley Authority (TVA), for example, had its collection of 8,113 human remains scattered in six separate universities in several different states.

When asked if they have human remains and associated funerary objects in their collection that they have been unable to culturally affiliate, one federal agency said yes, several said they didn’t know or not applicable, and others said no. If the answer was yes, the federal agency should notify the NPS and consult with tribes. The federal agencies were asked if they conducted any of the following regarding working with Native people: attend Review Committee meetings, attend Native American museum meetings and conferences, work with other federal agencies, and others. Ms. Kraus stated these could be positive factors. Some agencies indicated that a Native entity has filed a complaint against the federal agency, but no federal agencies indicated that looting was a problem within the federal agency’s lands, that the federal agency had been involved in a legal dispute with a Native entity, or that the federal agency permits scientific studies with human remains or funerary objects in its collection.

Recommendations

Ms. Kraus reviewed the recommendations contained in the Federal Agency Compliance Report.

1. Statutory recommendation to amend the definitions section of NAGPRA to clarify the application to human remains.
2. Regulatory recommendation to establish an Interagency NAGPRA Implementation Council within the Executive Branch, which would:
 - Assure compliance with each agency,
 - Coordinate compliance across all agencies, including maintaining a database of compliance and each agency's compliance record,
 - Refer issues of noncompliance and remedies for noncompliance to the Inspector General of each federal agency and direct the National NAGPRA Program to publish relevant information,
 - Provide training in coordination with the National NAGPRA Program to ensure all federal personnel charged with responsibilities have necessary training,
 - Serve as a dispute resolution forum among federal agencies, and
 - Develop uniform consultation guidelines with Indian tribes and Native Hawaiian organizations for all federal agencies, to be published in the Federal Register by the National NAGPRA Program.
3. Oversight and Enforcement.
 - Establish a program to train federal agency personnel on statutory and regulatory requirements and requirements for predecisional consultation associated with cultural affiliation determinations related to notice publications and repatriation,
 - Involve Native people in training,
 - Promulgation of NAGPRA policies within each federal agency,
 - Develop a process that each agency proposes to follow for predecisional consultation regarding cultural affiliation to be submitted to the National NAGPRA Program for publication in the Federal Register,
 - Revise CUI database to allow better search functions,
 - National NAGPRA Program to require submittal of federal agency documentation on predecisional consultation to determine cultural affiliation listed in CUI database,
 - National NAGPRA Program to require submittal of information documenting scientific study in CUI database,
 - National NAGPRA Program to provide frequent updates of CUI database, with input from Native people to develop new questions for the CUI database, and
 - National NAGPRA Program to require provision of uniform information to be contained in CUI database including description of any study beyond sorting, counting, and original location.
4. General program recommendations.
 - Establish a process to assess effectiveness of NAGPRA about repatriations, to demonstrate the Act's goals are being met.
 - National NAGPRA Program to develop a database of cases that came before the Review Committee to identify which cases have been resolved, the manner, and any outstanding cases. Develop a list of notices awaiting publication.
 - National NAGPRA Program, in consultation with Native entities, to develop a standard MOA or PA that provide for Native groups to resume stewardship over human remains regarding inadvertent discovery.
 - Adequate funding at tribal and federal level, for Council, and additional responsibilities of National NAGPRA Program.
 - Congress request that the General Accountability Office (GAO) conduct an audit of federal agency compliance with the statutory and regulatory requirements of NAGPRA for all relevant federal agencies
 - Inspector General of each federal agency should investigate any noncompliance with the Act that is identified by the GAO audit.

Mr. Riding In stated that another problem with NAGPRA was federal agencies were not subjected to oversight. Ms. Kraus stated that the research project was made available by a NPS NAGPRA grant to the Makah Indian Tribe of Washington State, and through an agreement with NATHPO to conduct the work. The report will be finished by the end of October and will be submitted to all Indian tribes and federal agencies for consideration.

Review Committee Discussion

Mr. Monroe stated that this project was extremely valuable work and that he had a few comments and suggestions. Mr. Monroe stated it would be helpful to identify the size of the universe of respondents, both tribes and federal agencies, especially since there were variations in the number of responses per question. Mr. Monroe suggested the use of mean, median, and mode interpretations in order to form consistent conclusions. Mr. Monroe stated that the issue of federal agency compliance was extraordinarily important and strengthening the report will help make it more impactful. Ms. Kraus stated for clarification that 60 tribes completed the first tribal survey, 15 of those tribes completed the expanded tribal survey, and 15 federal agencies completed the federal agency survey.

Mr. Steponaitis stated that he would second Mr. Monroe's comments and also Mr. Riding In's point that the Act contains asymmetry in its treatment of museums and federal agencies regarding compliance, and this report was a good way to open the door on the issue. Mr. Steponaitis stated he was a little confused by the portion of the report that linked statistics on culturally unidentifiable human remains with a question about scientific study, making allusions to the clause in NAGPRA that prohibits scientific study unless of major benefit to the U.S. Mr. Steponaitis stated that in his reading of the statute that clause only applies in situations where cultural affiliation has been determined and there was an active claim for the human remains. Ms. Kraus stated that portion of the report was referring to notations in the CUI database that indicated scientific study beyond counting and sorting. Ms. Kraus stated she has heard tribes express frustration that the standards required for tribes to show cultural affiliation were high, and that the standards of sharing information were not the same, which leads to the recommendation to set up a process on determining what information was required.

Mr. Kippen stated that he liked the suggestions made by Mr. Monroe and Mr. Steponaitis and he appreciates the work done on this project. Mr. Kippen stated continued support of the request for a GAO study was important and asked for an update on future work on this project. Ms. Kraus stated that the report was scheduled to be published in final format by the end of October. The research team recommended additional study because they feel that they were not able to accomplish everything due to limited funding and time. The final report will be posted on their Website and sent to each Indian tribe, Alaska Native village and corporation, Native Hawaiian organization, federal agency, and the Review Committee members.

Ms. Augustine agreed that both sides should be held to the same standard and she was surprised to hear that federal agencies had no training. Ms. Augustine thanked the research team for the amount of work they accomplished in such a short time. Mr. Jones stated this issue made him consider the different ways people consider NAGPRA and how the Review Committee needs to work holistically and concentrate on the bigger picture.

Review Committee Motion

Mr. Monroe made a motion that the Review Committee encourage the National NAGPRA Program to positively entertain and consider proposals to do qualified extensions or expansions of this study. Mr. Kippen seconded the motion.

Review Committee Discussion

Mr. Steponaitis offered a friendly amendment that if further study was done that it be done by a group that included tribal people and also people from federal agencies. Mr. Monroe stated he hesitated to accept the amendment, and explained that he purposely avoided setting any criteria with respect to subsequent study. Mr. Kippen stated there were other strategies available, such as a GAO study or the Congressional Budget Office, and he would like to reserve the right for the National NAGPRA staff to consider this report and provide information to the Review Committee. Mr. Kippen stated he was concerned that attempting to get more funds might result in delays. Ms. Worl stated that she was concerned that pursuing other studies might delay the GAO study. Ms. Worl stated in addition to the expanded study, she would like to have the National NAGPRA Program staff analyze the recommendations and report to the Review Committee at the next meeting. Ms. Hutt stated that the National NAGPRA Program could invite the research time to the program office to discuss the nuances of the study at length, determine priorities, and consider future grant ideas. Mr. Steponaitis moved to table the motion. Ms. Worl stated that the motion was tabled. Mr. Monroe stated he was happy to withdraw the motion and consider methods to proceed on this issue. The Review Committee members agreed to reconsider the issue the following day.

Review Committee Motion

The second day of the meeting, Mr. Monroe made a motion that, one, the Review Committee actively seek initiation of a GAO study of federal compliance with NAGPRA; two, careful consideration be given within the National NAGPRA Program to any grant submissions for expansion of the initial study of federal compliance, such that a study of this sort would include studies of compliance by federal agencies that own or control the majority of federal lands, that employ statistically significant samples and standard research measures and methods, and that includes independent researchers, tribal representatives, and if possible federal representatives to guide the study; and finally, that the Review Committee carefully review the final recommendations in the Makah study when complete in order to consider further possible actions to assure general and specific federal compliance with NAGPRA. Mr. Monroe stated that the Review Committee may find it desirable to issue inquiries to specific federal agencies regarding their compliance with NAGPRA. Mr. Kippen seconded the motion.

Review Committee Discussion

Mr. Steponaitis stated that he would feel more comfortable commenting on the final version of this report. Second, the Review Committee would be working at cross purposes to ask the GAO to pursue a study of federal agency compliance and the National NAGPRA Program to consider grants to do the same. Mr. Steponaitis stated the GAO study would be a very powerful way of making federal agencies listen. Mr. Steponaitis recommended keeping the motion simple and focus on getting a study done by the GAO. Ms. Hutt stated that the National NAGPRA Program does not control who applies for or receives grants. Mr. Kippen stated that a GAO study would be possible if the Review Committee develops a strategy to communicate this issue to people within Congress who are interested in NAGPRA, as the GAO serves the will of Congress. If Congress asks for a report by the GAO, it is usually accomplished.

Review Committee Motion

Mr. Monroe stated he would like to amend his motion to adopt the suggestions by Mr. Steponaitis to make a concerted effort to get a GAO report on federal compliance with NAGPRA. Mr. Monroe stated the Review Committee could review the status of that effort at the May meeting, at which time they may wish to consider other options. Mr. Kippen seconded the motion. Mr. Kippen called the question. The motion was adopted by unanimous vote.

The Review Committee agreed to include the request in the letter to Senator Dorgan, along with letters to Senator Murkowski, Senator Inouye, Senator Stevens, Senator Kennedy, and Senator Cochran.

Discussion of Model Disposition

Presentation of Issue

Mr. Steponaitis presented a draft Model Disposition to guide parties in making a request for proposed disposition of culturally unidentified human remains.

A request for recommendation for the disposition of culturally unidentifiable human remains should minimally contain the following information:

1. A description of the proposed disposition;
2. A concise description of how the collection was acquired, including geographical location, date, and circumstances of discovery, if known;
3. A concise description of the remains themselves, including the number of individuals and any associated funerary objects;
4. The antiquity of the remains, if known, along with evidence for that antiquity;
5. A concise description of the forensic work, if any, that has been conducted on the remains stating when and by whom the work was conducted;

6. A discussion of the evidence for cultural relationships and possible cultural affiliations (if there are any doubts that the remains are Native American, these should be clearly stated);
7. A description of the consultation process that led to the current disposition request; and
8. Letters of support from all of the Native groups consulted, if possible.

Ms. Worl suggested adding wording that would encompass Mr. Steponaitis's earlier comments to include documentation of consultation with the public, such as newspaper notices. Mr. Monroe suggested asking that any requests include a list of all Native groups that may reasonably have possible cultural affiliation to the remains and if possible letters of support or evidence of the position of all Native groups consulted with respect to proposed disposition of the human remains. Mr. Jones stated that tribes may not wish to submit written letters of support in order to show their respect for other tribes involved in the process.

Review Committee Motions

Mr. Steponaitis made a motion to accept the guidelines for submitting requests for proposed dispositions with the amendments noted in the discussion. Mr. Kippen seconded the motion. Mr. Monroe called the question. The motion was adopted by unanimous vote.

Mr. McKeown asked if the guidelines could be appended to the Review Committee's current Review and Findings Procedures. The Review Committee members agreed. Mr. McKeown stated that the final document would require the signature of the Chair and the DFO, and asked if the Chair would be authorized to sign the final document.

Mr. Kippen made a motion that the Chair be authorized to sign the document. Mr. Steponaitis seconded the motion. Mr. Monroe called the question. The motion was adopted by unanimous vote.

Report and Recommendations on Pesticide Contamination of Artifacts

Mr. Lee Lomayestewa, Hopi Tribe, Village of Shungopavi, Bear Clan, NAGPRA Repatriation Coordinator, stated his job on the pesticide project was liaison between the 12 villages, society leaders, Katsina priests, and the Hopi Tribe's Cultural Preservation Office.

Mr. Leigh Kuwanwisiwma, Director for the Hopi Tribe's Cultural Preservation Office, thanked the Review Committee for the opportunity to speak and stated he would like to share the pesticide and contamination testing program instituted as a result of the Hopi Tribe's work with NAGPRA and repatriation. The Hopi Tribe began to deal with NAGPRA in the early 1990s with the receipt of inventories. The Hopi Tribe Cultural Preservation Office began to provide information to the 12 Hopi villages, which includes 34 living clans and perhaps as many extinct clans, along with 18 religious societies. Mr. Kuwanwisiwma stated that the Hopi cultural setting was complicated and Mr. Lomayestewa was invaluable, providing cultural backup because of his initiated status. Mr. Kuwanwisiwma stated that the amount of artifacts and material collections listed on the inventories was utterly stunning, with tens of thousands of Hopi material housed even today. The Hopi Tribe decided the priority should be *Katsina* friends, and inventories showed the Hopi Tribe would be working with at least 30 museums. Repatriations of *Katsina* friends began with ceremony and celebration and continued for some years.

Mr. Kuwanwisiwma described a repatriation visit to the Peabody Museum at Harvard University where the Hopi representatives were asked to don full protective gear, including gown, mask, cap, shoe covering, and gloves. That visit was when the Hopi Tribe learned about the issue of contamination. By 1997, the Hopi Tribe began to seriously consider the issue of contamination. By this time, almost 400 museums had made contact with the Hopi Tribe regarding inventories, both for human remains and cultural objects. The Hopi Tribe began to question institutions on whether material had been subjected to contamination. In making the decision to begin testing for contamination, the Hopi Tribe had to consider laboratory protocol, cultural protocol, and the type of testing and housing facilities available.

The Hopi Tribe conducted three phases of testing, in 1998, 2001, and 2004, in contract with the Arizona Poison Control Center. The Hopi Tribe employed experts from three disciplines, a medical doctor, a chemist, and Dr. Nancy Odegaard, an anthropologist and curator at Arizona State Museum. The expertise advice was necessary,

as the Hopi Tribe soon discovered how very little consistent recordkeeping was available with regard to the application history of the use of pesticides. Each museum had different application practices, and some institutions could indicate a date by which they had discontinued the use of pesticides. Learning the accession history of objects became very valuable as a way to understand the probability of pesticide use on objects. The Hopi Tribe factored in a number of protocols, including health risk due to type of use, length of skin contact, and type of contaminant. Arsenic, for example, is a carcinogenic agent if absorbed by the skin. The initial cost for the Hopi Tribe was approximately 1,500 dollars per item.

Mr. Kuwanwisiwma described an item repatriated from the Field Museum in 1993 or 1994 called the Mastop Katsina Friend. The testing results showed the presence of arsenic at 500 times the acceptable level in terms of health risks by EPA standards. The object had been repatriated to a family and was stored in their home in their corn storage area for over two years prior to testing. Mr. Kuwanwisiwma stated the object was at the Field Museum, and the Hopi Tribe has been advised to never repatriate the item due to the hazardous risk. Other objects found to have high readings of arsenic were stored in Mr. Kuwanwisiwma's garage. The Hopi Tribe felt it was a matter of legal liability for institutions to share information and invest in some of the contamination testing. Some institutions have applied for NAGPRA grants to do testing programs, like the Denver Natural History Museum and the Denver Regional Office, NPS.

Mr. Kuwanwisiwma stated that due to potential contamination, the Hopi Tribe had to retrieve all previously repatriated objects. The Hopi Tribe does not have the facilities to deal with repatriated items that may or may not have been contaminated. The Hopi Tribe has in some instances negotiated with institutions to house objects in perpetuity, especially items with high levels of contamination. Following the testing, the Chairman of the Hopi Tribe sent a letter to the 400-plus museums to ask the museums to share any information available on the issue of contamination and also to formally declare a moratorium on the physical return of objects until such time as the Hopi Tribe learns more about each museum's collection history and the issue of contamination.

Mr. Kuwanwisiwma stated the goal of the presentation was to implore Indian tribes, museums and federal agencies responsible for the implementation of NAGPRA to really consider the issue of contamination and make contamination testing a priority.

Mr. Steponaitis thanked Mr. Lomayestewa and Mr. Kuwanwisiwma for their presentation and asked what percentage of the objects tested positive for contamination. Mr. Kuwanwisiwma stated that 68 *Katsina* friends were tested and of those probably 10 were positive to the level of concern. Mr. Kippen thanked Mr. Lomayestewa and Mr. Kuwanwisiwma for their report and asked if there was a national database for institutions to report their practices of pesticide use. Mr. Kuwanwisiwma stated that while he was aware of informational websites, he was not aware of any formal website with museum specific information. The Hopi Tribe has shared information with other tribes upon request. Ms. Worl described the efforts of her tribe in Southeast Alaska to work on the issue of contaminated items and stated the Review Committee may need to include this issue as a topic in the request for a GAO study. Ms. Worl thanked the presenters for their work and stated it was very important to share this information, perhaps the results of the Hopi Tribe's work could be published and distributed throughout Indian Country.

Administrivia

Announcements

Ms. Worl stated that human remains were found in a cave on Forest Service land in Southeast Alaska. The Forest Service immediately initiated consultation with several tribes, who met to decide which tribes would take the lead in the consultation with the Forest Service. Ms. Worl stated that after a series of meetings, the tribes decided they would like to learn more about their ancestor. Ms. Worl explained a traditional concept called *ha shagóon* (phonetic), which parallels teachings of Native Americans from across the country, and reflects their responsibility to the ancestors and to future generations. Ms. Worl stated *ha shagóon* translates to something like "our heritage and our destiny" or "our ancestors and our future generations." The tribes felt the ancestor had revealed himself to provide further knowledge and authorized scientific study, which included DNA results, dating of the ancestor to 10,300 years old, and a determination that the ancestor relied heavily on a maritime diet.

Ms. Worl stated that at first the younger people in the tribes were upset because study had been authorized, but the elders stated that the ancestor proved the people had been there since time immemorial and felt they had the blessing of the ancestors to move forward. Ms. Hutt stated that they respect the views of other tribes who may feel differently. Ms. Worl stated that Mr. James Dixon, Archaeologist with Maxwell Museum of Anthropology, Albuquerque, NM, wrote a book, and she wrote a paper in which she studied oral traditions. Ms. Worl and Mr. Dixon were currently working on a future publication to show the parallels between oral traditions and the scientific studies. Ms. Worl stated that the tribes just received notice of disposition of the human remains and were planning reinterment. Ms. Worl stated that these events were recorded in a video titled "*Kuwōot Yas.éin*," which means "looking out from the cave," shown for the public during lunch hour of the second day of the meeting. Ms. Worl stated this was a glorious moment for her people and she wanted to share the good news.

Submission of Materials to the Review Committee

After discussion, the Review Committee members agreed that all materials relevant to a pending decision of the Review Committee need to be received at least one week prior to the meeting in order to provide the Review Committee members with ample opportunity to review the information. Material of an informational nature will be accepted up to or during the meeting.

Upcoming Meetings

Ms. Worl stated that the Review Committee received an invitation from the Phoebe Hearst Museum at the University of California at Berkeley to host the next meeting. Mr. Monroe stated that due to an ongoing NAGPRA situation, meeting at the Phoebe Hearst Museum could be considered a conflict of interest. After discussion, the Review Committee members agreed to meet in California in the second week of October 2008. The National NAGPRA Program will help determine a neutral location and timing, with consideration of the Review Committee members' schedules. As a reminder to the members of the public, Mr. McKeown stated that the next meeting of the Review Committee would be May 15-16, 2008, in De Pere, WI.

Drafting of the Review Committee's 2007 Report to Congress

Ms. Worl asked Mr. Kippen to draft the 2007 Report to Congress for consideration at the May 2008 meeting. Ms. Worl asked Ms. Augustine to work with Mr. Kippen.

Public Comment

Ms. Sandra Dong, Peabody Museum of Archaeology and Ethnology, Harvard University, thanked the Review Committee for the opportunity to present an update on the Peabody Museum's NAGPRA implementation for the past year. In FY2007 the Peabody Museum facilitated 5 physical repatriations accounting for 73 human remains, 31 funerary objects, and 2 objects of cultural patrimony. The Peabody Museum published 5 notices in the Federal Register for a total of 2 human remains, 2 funerary objects, and 17 objects of cultural patrimony. Ms. Dong stated that consultation visits occur on the average of one every two months. In FY2007, the Peabody Museum hosted a total of six consultation visits involving groups from Alaska, Washington, Oregon, California, Nevada, and Arizona. The Peabody Museum continues to consult with various Indian tribes through their collections Website, initiated with funds from a National NAGPRA documentation grant. The Website currently has 17 password-protected lists, and the Peabody Museum welcomes the opportunity to have tribes visit the lists or to develop custom lists for consultation. Ms. Worl thanked Ms. Dong for her presentation and the Peabody Museum for its faithful meeting attendance and updates.

Ms. Keola Awong, Hawaii Volcanoes National Park, stated she was present to update the Review Committee with a progress report on behalf of Superintendent Cindy Orlando on the issue of five items in the collection of Hawaii Volcanoes National Park originating from Forbes Cave in Kawaihae. In May 2006, Hawaii Volcanoes National Park determined that the appropriate NAGPRA category for the five cultural items was unassociated funerary objects and that the objects are Native Hawaiian in origin. The determination was shared in writing and through other means with all representatives of Native Hawaiian organizations with whom Hawaii Volcanoes National Park

has been in consultation. Subsequently, Hawaii Volcanoes National Park received six lineal descent claims. In May 2007, after detailed analysis by the NPS of the submitted evidence, the claimants were asked to review Hawaii Volcanoes National Park's interpretation of their respective genealogies and either confirm or provide information regarding the ancestor. While the detailed historical knowledge and genealogical information provided by the six claimants was impressive, Hawaii Volcanoes National Park found that none of the claimants provided sufficient evidence needed to specifically associate the name of one known individual with the funerary objects from Forbes Cave. The information submitted by the six claimants was divergent, including the separate identification of two individuals. In the absence of a preponderance of the evidence to establish the identity of the individual and the association with these unassociated funerary objects, all six claims were declined and the claimants notified in writing. On October 4, 2007, Hawaii Volcanoes National Park sent letters to all potentially culturally affiliated Native Hawaiian organizations providing information about the denial of the lineal descent claims and that consultation will resume with all Native Hawaiian organizations interested in pursuing a claim. Ms. Awong stated that as recently as September 25, 2007, Hawaii Volcanoes National Park was contacted by a Native Hawaiian expressing interest in pursuing a claim. Ms. Awong stated that Hawaii Volcanoes National Park will evaluate all claims as part of the ongoing NAGPRA process, and that although the process has been time-consuming, Hawaii Volcanoes National Park has treated the claimants with respect and will continue to do so.

Mr. Monroe asked for a review of the criteria for identification of lineal descendant and how Hawaii Volcanoes National Park concluded that none of the claimants met those criteria. Mr. Fred York, Regional Anthropologist for the Pacific West Region, NPS, stated he was also the Regional NAGPRA Coordinator and works closely with the Park NAGPRA Program based in Denver, CO. His responsibilities include assisting parks such as Hawaii Volcanoes National Park in NAGPRA compliance. Mr. York referenced the criteria for determining lineal descent at Section 10.14(b). Mr. York stated that he, Superintendent Orlando, Ms. Awong, and other park staff reviewed the evidence provided by all six claimants. The genealogical information was considered systematically, and lineages were generated based on the evidence. These lineages were sent back to the claimants for them to proofread and make changes for accuracy or additional information. In response, two claimants identified one individual on the basis of a historical document dating to 1876, which was described to the Review Committee at the Washington, DC meeting. Due to the nature of the information referenced in the document and the simple reference to the individual being buried in the *pali* (cliffs) of Honokoa Gulch, which was a very large area, the document was not seen as sufficient preponderance of evidence to identify or associate the known individual with the Forbes Cave location. A third claimant identified another known individual, based on oral tradition but no historical documentation. Two other claimants provided extensive genealogical information but could not name a known individual buried in Forbes Cave. The sixth claimant was not responsive to written or direct requests for additional information on the identity of the known individual.

Ms. Bridget Ambler, Curator of Material Culture, Colorado Historical Society, thanked the Review Committee for the opportunity to offer an update. Ms. Ambler expressed greetings and regrets from Mr. Ernest House, Jr., Executive Secretary for the Colorado Commission of Indian Affairs, who was unable to attend the meeting as planned due to a canceled flight. Ms. Ambler stated that in November 2006 a consortium appeared before the Review Committee consisting of representatives from the Ute Mountain Ute Tribe, the Southern Ute Tribe, the Colorado Commission of Indian Affairs, and the Colorado Historical Society. The consortium, along with representatives of 47 Indian tribes, worked to develop a process to allow repatriation of culturally unidentifiable Native American human remains inadvertently discovered on state and private lands in Colorado. At that time, the Review Committee recommended the consortium receive written letters of support from three additional tribes, the Jicarilla Apache Nation, the Kiowa Tribe of Oklahoma, and the Apache Tribe of Oklahoma. Ms. Ambler stated the Review Committee was provided copies of the letters of support from the Apache Nation of Oklahoma and the Jicarilla Apache Nation. The meeting with the Kiowa Tribe of Oklahoma had to be rescheduled, and Ms. Ambler stated that productive dialogue was ongoing and a letter should be forthcoming. Since November 2006, the Colorado Historical Society has developed internal procedures including the Collections Management Division, State Archaeologist, and the Department of Material Culture in consultation with the Colorado Commission of Indian Affairs that will identify who is responsible for specific tasks included in the protocol. Once the letter of support is received from the Kiowa Tribe of Oklahoma, repatriation can begin as outlined in the procedures.

Mr. Patt Murphy, NAGPRA Representative for the Iowa Tribe of Kansas and Nebraska, had a question regarding enforcement of NAGPRA. Mr. Lawler stated that if a museum was not in compliance with NAGPRA they are not eligible for federal grants or monies. Mr. Murphy asked when a museum was part of a city or county entity if the

noncompliance would impact federal grants or monies received by the city or county. Mr. Simpson stated that he believed the answer to be yes but would like an opportunity to do further research.

Ms. Helen Robbins, Repatriation Specialist at the Field Museum, stated she wanted to applaud the efforts of the Hopi Tribe and the individuals from the Arizona State Museum for spearheading the effort to inform people about pesticide and other contaminant use in Native American collections and to establish testing procedures. Ms. Robbins stated that the Field Museum has never repatriated contaminated collections without informing tribes. Although currently in consultation, the Field Museum has not repatriated to the Hopi Tribe. The masks referred to in the presentation by Mr. Kuwanwisiwma were acquired by the Field Museum in the early 1900s but were exchanged to the Laboratory of Anthropology in 1932. Ms. Robbins stated that pesticides were commonly used by museums and collectors in the early 20th Century and very few records exist. Ms. Robbins stated the Field Museum was actively working to become a resource for tribes in the Midwest and to build a program for pesticide testing, being available for trainings and testing.

Ms. Angela Neller, Curator for the Wanapum Heritage Center, stated she provides technical support for the Wanapum Band as well as other Columbia Plateau Tribes in intertribal repatriations. Ms. Neller stated she wanted to acknowledge Ms. Lavallee for the hard work she did with the help of Mr. McKeown and Ms. Hutt to facilitate the review and publication of six Federal Register notices in a large repatriation from the Burke Museum in Central Washington University. In appreciation, Ms. Lavallee has been invited to attend the reburial ceremony and dinner.

Ms. Jan Bernstein, President of Bernstein and Associates, NAGPRA Compliance Consultants, stated she would provide the University of Colorado Museum Care Handling Access Policy template for use by the subcommittee in their discussions considering 43 CFR 10.7. Regarding the federal compliance project, Ms. Bernstein recommended including nonfederal repositories that have accepted federal collections discovered since 1990. Ms. Bernstein then gave examples of NAGPRA success stories, including four grants written for the University of Colorado Museum used to consult with 19 pueblos, the Hopi Tribe, the Navajo Nation, 3 Ute tribes, and 18 Plains tribes, which resulted in the repatriation of 350 individuals and 579 funerary objects. During the consultation process, all tribes were provided with the history of no pesticide use in the University of Colorado Museum, although tribes were cautioned that the University of Colorado Museum did not know how the items were treated prior to arrival at the University of Colorado Museum.

Mr. Lalo Franco, Santa Rosa Rancheria Tachi Yokut Tribe, stated he also represented the Sierra Nevada NAGPRA Coalition, a newly formed coalition in California and part of the controversy at the Phoebe Hearst Museum. Mr. Franco stated he was happy to be at the meeting and thanked the spirits of the land and tribes for hosting them. Mr. Franco thanked the National NAGPRA staff for their technical support. Mr. Franco described the problems his tribe has experienced in California. The different institutions each seem to have a different take and a different approach concerning NAGPRA. Mr. Franco stated that Mr. Tarler was very helpful when his tribe filed letters of noncompliance against the UCB committee, which had been dragging their feet. As a result, the particular human remains at issue are now Santa Rosa Rancheria's. Mr. Franco stated that despite repeated requests to various federal agencies, such as the Forest Service, NPS and BLM, his tribe has not received comprehensive inventories with the exception of the Army Corps of Engineers. Mr. Franco stated he reviewed all records and information received by the tribe and he was certain no inventories have been received. Museums that have not sent inventories to the tribe were guilty of noncompliance.

Mr. Franco described a situation where the tribe submitted a claim in response to culturally unidentifiable human remains listed on the University of California at Berkeley's inventory, but in correspondence between university staff the remains were determined not to be cultural affiliated. Mr. Franco stated that the letter referenced information that was listed incorrectly on the inventory and the determination was made without tribal consultation. Mr. Franco stated that his tribe believes that in the rush to complete inventories back in 1995 human remains were simply classified as culturally unidentifiable. Mr. Franco described their relationship with University of California at Berkeley as changing over time, and when the tribe developed a good relationship with Dr. Larri Fredericks, the NAGPRA unit was reorganized and Dr. Fredericks no longer worked with the NAGPRA unit. Although the university claimed the changes were made to the NAGPRA unit to better serve the tribes, no consultation with the tribes was done. The Sierra Nevada NAGPRA Coalition would like the Phoebe Hearst Museum to comply with NAGPRA, to include more Native peoples and tribal groups in their decision making, to engage in better

consultation with tribes, to be more transparent in their dealings with tribes, and to address the issue of culturally unidentifiable human remains and the noncompliance with NAGPRA that was happening in California.

Mr. Geoffrey Stauffer, law student at the University of Arizona, thanked Ms. Augustine and Mr. Jones for their comments reminding everyone of their higher duty that they need to remember when dealing with ancestral remains. Mr. Stauffer stated he was concerned that in the discussions at the meeting that the burden has shifted too much onto tribal people. Preponderance of evidence was a low standard to meet, and making it more difficult starts to disserve the interests of NAGPRA. Mr. Stauffer stated he hoped legal counsel could provide guidance on exactly what the preponderance of evidence standard was for NAGPRA. Mr. Stauffer agreed with Mr. Kippen's comments regarding the difficulty of enforcement of NAGPRA and suggested that the Review Committee push for concurrent tribal authority with federal authorities.

Mr. James Riding In, Arizona State Museum, thanked the Review Committee for allowing the presentation of the federal compliance report. Mr. Riding In stated that the primary concern expressed in the federal compliance report was the need for federal oversight. Mr. Riding In stated that he agreed with earlier comments about oral traditions and history being devalued. The spiritual words coming from the Review Committee were very important and were what drives many in their repatriation work. Mr. Riding In stated the federal compliance report listed some recommendations and pointed out some problems inherent with the operations of National NAGPRA. Ms. Hutt and Mr. McKeown have done a great job and receive both fair and unfair criticism. The report identifies problems with the CUI database and the need for improvements in NAGPRA training. Mr. Riding In stated the documentary shown during the lunch period of the meeting supported science in many respects, and he would like to see equal time given to the perspective of other tribes about how science infringes upon religious freedom and understanding of the past. Mr. Riding In thanked the Review Committee for allowing his students to see this process.

Ms. Sandra Harris, Deputy Director of the Phoebe Hearst Museum at the University of California at Berkeley, stated she wanted to assure the Review Committee that there were museum professionals such as herself at the Phoebe Hearst Museum that are committed to NAGPRA compliance, including consultation with Indian tribes and the Review Committee through this process. Ms. Harris stated that the Phoebe Hearst Museum's invitation to the Review Committee still stands. Ms. Worl thanked Ms. Harris for her comments and the invitation.

Closing Comments

Mr. Jones thanked the people who recognized the traditional spiritual aspect of the Review Committee. Mr. Jones thanked Ms. Worl for showing the documentary, and stated that the remains of a bison were found in his area. Mr. Jones stated that the identification of a mark left by a projectile point and the age of the bison proved that his ancestors have been in the area for at least 11,700 years. Mr. Jones stated that he shared this information because it makes him think about his work with the other Review Committee members, combining the scientific and spiritual aspects, and how the members learn from each other.

Ms. Augustine stated she has been dealing with ancestral remains since 1977, doing hundreds of reburials. Ms. Augustine stated many ancestors want to come home, they come to her and pull her hair, she hears them crying or sees them while sleeping. Ms. Augustine put in a spiritual request that even though limited by the law that the Review Committee do its best to lay the ancestors to rest. Ms. Augustine acknowledged and thanked the spirits of the ancestors and those working on NAGPRA.

Ms. Worl stated she was Tlingit, an Eagle, from the Thunderbird House, the House Lowered by the Sun. She stated she was honored to be a child and grandchild of the Sockeye from Haines. Her village is Klukwan. She is privileged to have the spirit of the Eagle, Thunderbird, Shark, White Bear, and Sockeye. Ms. Worl stated she brings these spirits to the meeting, with her education and training, and dedicates herself, her ancestors, and her spirits to the energies to make NAGPRA succeed. NAGPRA would not be successful without the work of all of the individuals who are at the meeting, the staff members, the interest and dedication of the tribes, the scientific organizations, and museum. Ms. Worl thanked everyone for their great work and dedication.

Meeting Adjournment

The meeting adjourned at 5:04 p.m., on Tuesday, October 16, 2007.

Certified –

/s/ C. Timothy McKeown
Mr. C. Timothy McKeown,
Program Officer, National NAGPRA Program
Designated Federal Officer, Native American Graves Protection
and Repatriation Review Committee

February 29, 2008
Date

Approved on behalf of the Review Committee –

/s/ Rosita Worl
Ms. Rosita Worl
Chair, Native American Graves Protection
and Repatriation Review Committee

February 27, 2008
Date