



June 16, 2023

Via email

To the Honorable Members of the Senate Committee on Indian Affairs:

The Illinois State Museum (ISM) submits the following in response to the April 20, 2023 request of the Senate Committee on Indian Affairs regarding the Museum's commitment to upholding the Native American Graves Protection and Repatriation Act (NAGPRA)¹ and its regulations². The ISM commends the Senate Committee for recognizing the importance of this law and hopes that this investigation leads to a stronger enforcement of the law, greater resources for Tribal communities who have experienced removal from their homelands, and a deeper understanding of the impacts of this request on institutions and Tribal Nations committed to upholding the law.

The ISM is pleased to report that to date, no allegations, of failure to comply with NAGPRA have been filed with the National NAGPRA Program against the ISM. The following provides an overview of the ISM's history and information on repatriation policies and practices.

The ISM was established in 1877 with a statutory mandate to study, collect, and interpret the land, life, and people of Illinois³. Accredited since 1972 by the American Association of Museums (now the American Alliance of Museums), the ISM is responsible for the care of an estimated 13.5 million objects in the Illinois Legacy Collection as well as the stewardship of many State, Federal, and Tribal collections. Additionally, the ISM Anthropology Department holds an estimated 12 million objects in its archaeology and ethnographic collections.

All Native American human remains and associated funerary objects curated at ISM from expedition, private donation, and transfer from other sources are subject to NAGPRA. Human remains from unregistered graves are curated at the ISM per state law and regulations,⁴ which went into effect in 1989. While human remains are more likely to be avoided today, this was not the case for most 20th century archaeology. Large mound sites in Illinois were excavated in the 1920s-1940s and many were effectively leveled either by institutions or amateur archaeologists. This was followed by a period of significant highway expansions and other transportation projects that peaked in the 1970s. Native American mortuary sites were encountered throughout the state during such projects. The State of Illinois recognized the severity of the desecration of burial sites and passed the Human Skeletal Remains Protection Act (Act) in 1989.

¹ 25 USC §3001 et seq.

² 43 CFR §10.1 et seq.

³ 20 ILCS 801/1-25

⁴ 20 ILCS 3440 and 17 IAC 4170



Fewer than one quarter of the ancestral remains in the ISM's holdings are from projects carried out by the Museum, the majority of whom are from the Dickson Mounds site (detailed below). From 1989 to 2008, less than 1% of ISM holdings (38 individuals) were recovered via expedition by the ISM. All these cases were either inadvertent discoveries during excavation or laboratory analysis, or salvage recovery due to ongoing or impending threats to an archaeological site. In other words, no burial sites were intentionally targeted for research by the ISM after the passage of the Human Skeletal Remains Protection Act. No ancestral remains were acquired by ISM expedition after 2008. Today, the ISM receives remains of any ancestry from the Illinois State Police and coroners when the remains in question are greater than 100 years old and not part of an ongoing criminal investigation, in accordance with state statutes.

Following the passage of NAGPRA in 1990, the ISM hosted consultation meetings with 37 representatives of 17 Tribal Nations regarding the repatriation of Native American ancestral remains. Following then-current practice, precontact⁵ populations were designated "culturally unidentifiable," with the caveat that should more information become available, the consulting Tribes would seek to culturally affiliate and repatriate these relatives. The 2010 NAGPRA regulations created a path for affiliating the "culturally unidentifiable" ancestors by consultation with Tribes "from whose aboriginal lands the human remains and associated funerary objects were removed."⁶

The ISM understands and appreciates the purpose and intent of NAGPRA, which is repatriation or disposition of Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony held by museums that receive federal funding. The ISM is dedicated to fulfilling its obligations and responsibilities with respect to the law and its regulations. We acknowledge that meeting minimum standards of compliance is not in keeping with the spirit of the law and have taken a proactive and Tribally-led approach to NAGPRA work as evidenced by recent staffing changes and organizational direction. The ISM is working to uphold its NAGPRA commitments and provide education and guidance to all staff and the public on Tribal issues.

After a nine-month temporary closure in 2015-2016 and departure of staff most familiar with NAGPRA⁷, the ISM hired Dr. Brooke Morgan as Curator of Anthropology in 2018. Dr. Morgan identified NAGPRA as a priority, built a strategic plan for NAGPRA collections, and underscored the importance of NAGPRA work in the ISM's institutional five-year strategic plan. Cinnamon Catlin-Legutko, a leader in the field of museum decolonization efforts, joined as Museum Director in 2019

⁵ The term "precontact" is used instead of "prehistoric" to avoid the implication that Native inhabitants had no history prior to European incursion. Nonetheless, we recognize that "precontact" still centers European arrival and views history through a Western lens.

⁶ 43 CFR 10.11

⁷ Steve Stein (*Pekin Times*), "Closing decimates Illinois State Museum management," *The State Journal-Register*, Dec. 27, 2015, <https://www.sj-r.com/story/news/politics/2015/12/28/closing-decimates-illinois-state-museum/32824488007/>



and served until her death in January 2023. She immediately recognized the need for Indigenous perspectives on the Governor-appointed ISM Board of Directors (ISM Board) and on ISM staff. In 2020, Andrea Carlson (Ojibwe) became the first Indigenous person to serve on the ISM Board, joined in 2022 by Chris Pappan (Kaw, Osage, Cheyenne River Lakota).

Logan Pappenfort (Peoria) was hired in 2021 as Curator of Anthropology at Dickson Mounds Museum, a branch of the ISM. As former Director of Cultural Preservation for the Peoria Tribe of Indians of Oklahoma, Mr. Pappenfort brings critical Tribal historic preservation experience to the ISM system. In 2022, Heather Miller (Wyandotte) was hired as the first Director of Tribal Relations for the ISM and the Illinois Department of Natural Resources, the ISM's parent agency. This position is designed to engage Tribal communities with the state of Illinois in a government-to-government relationship. Within the organizational structure of the ISM, the Director of Tribal Relations oversees the anthropology department and has an active role in ensuring NAGPRA compliance and caring for ancestors and their items until repatriation occurs. Both Mr. Pappenfort and Ms. Miller bring a personal connection and deep understanding of the impact of this work as citizens of Tribal Nations removed from their homelands in the Midwest.

In 2021, ISM leadership created an internal ISM NAGPRA committee which includes current Tribal members of staff to provide internal guidance on research requests. This is a critical acknowledgement of evolving processes and centering Tribal knowledge and perspective in the work of the ISM.

As the ISM rebuilds and strengthens Tribal relationships, the institution develops a greater understanding of the challenges and needs facing the Tribal Nations with affiliation to our state. Dozens of Tribes were forcibly removed from Illinois, the effects of which are still felt today with no federally recognized Tribes within state borders. Tribal partners often travel hundreds of miles to visit the ISM facilities and participate in meetings. As the ISM makes operational and institutional changes, this understanding and awareness guides our NAGPRA work. The widely accepted virtual meeting format has dramatically helped more Tribal partners stay informed and active with the ISM's NAGPRA work since 2020. The ISM has increased capacity by allowing a system for virtual, in-person, and hybrid consultation processes to occur, therefore helping to defer the cost of repatriation work for Tribal partners.

Removed Tribes have indicated a strong desire to rebury their ancestors in a designated place in Illinois, and reburial is often one of the first issues that arises during consultation meetings. Through multiple consultation sessions with Tribal Nations, the ISM was tasked with updating the State's burial law to include stronger protections for Native ancestors and their belongings and provide a mechanism for creating reburial areas for repatriated ancestors. The ISM is happy to report that as of the writing of this response, the State's revised Human Remains Protection Act has been



successfully passed through state legislature under Illinois House Bill 3413 with bipartisan, bicameral support, and is currently awaiting the Governor's signature. The revised burial law will be a creative solution, incorporating Tribal perspective that highlights the important institutional changes being made by the ISM.

The ISM is actively pursuing decolonizing methodology as it shapes its future and re-envision museum spaces in partnership with Native peoples. Building trust, and hopes of reconciliation, necessarily begins with consultation on and repatriation of approximately 1,104 Native American ancestors and 6,337 associated funerary objects from the Dickson Mounds site in Fulton County, Illinois. In September 2020, invitations to consult were sent to twenty Tribes with land cessions, occupational history, or stated interest in Fulton County. Tribes provided letters of support as project partners, and the ISM received a NAGPRA Consultation & Documentation grant from the National Park Service in 2021⁸ that is helping to facilitate consultation with a consortium of Tribes and complete the accurate documentation of Dickson Mounds ancestors and their funerary belongings. The ISM created a Scope of Work based on several consultation meetings and provides Tribes with quarterly progress reports. The Scope of Work includes protocols and workflow for identifying and reunifying human remains and associated funerary objects from Dickson Mounds. Standards of care for housing and handling of ancestors and their belongings during this reunification process were established with consulting Tribes.

The Dickson Mounds NAGPRA project is carried out with respect, diligence, and transparency. As reported in the ISM's NAGPRA inventory and visualized by ProPublica⁹, the greatest number of ancestors in the ISM's holdings are from Fulton County. This geographic area was home to thousands of people throughout history and has a significant concentration of mound sites. Burial places also suffered the effects of professional and amateur archaeological excavation and pothunting at a higher rate than other places in the state, all of which contributed to the large proportion of ancestors and their belongings. This project is laying the foundation for proceeding with repatriation in Illinois in a proactive manner at a pace directed by Tribal Nations. Not only will the repatriation of Dickson Mounds be the largest in Illinois, but it will also provide a framework to effectively repatriate other mound sites from Fulton County and achieve the ISM's strategic plan for NAGPRA work on an unprecedented scale. Currently, Tribal partners have indicated their support of

⁸ Grant No. P21AP11454-00

⁹ Ash Ngu and Andrea Suozzo, "The Repatriation Database: Illinois State Museum," *ProPublica*, Jan. 11, 2023, Data from Apr. 26, 2023, <https://projects.propublica.org/repatriation-nagpra-database/institution/illinois-state-museum/>



our work and processes as seen in the recently passed Resolution from Miami Tribe of Oklahoma¹⁰ that reaffirms our compliance and valuable relationship.

In response to your specific requests, please find additional information below.

- 1) *Please describe in detail how your institution determines if there is “a relationship of shared group identity that may be reasonably traced” when your institution is determining the cultural affiliation of NAGPRA-eligible items or ancestral remains, and explain how your institution interprets and applies the terms “totality of the circumstances” and “preponderance of the evidence” when making such determinations.*

The ISM interprets the term “totality of the circumstances” to mean all circumstances (i.e., lines of evidence) must be considered for determining cultural affiliation, and determination cannot rely on any one factor or a perceived lack of information¹¹. The types of evidence to be considered when establishing cultural affiliation are geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historical, or other relevant information or expert opinion¹². One type of evidence should not be privileged or given greater weight than another type of evidence.

The ISM understands the term “preponderance of the evidence” to mean that the evidence as a whole demonstrates it is more probable than not that a determination can be made for cultural affiliation¹³. In other words, more than 50% of the available evidence points to the affiliation of a cultural item or ancestral remains in question with one or more present-day Indian Tribes or Native Hawaiian organizations. The evidence does not need to rise to the standard of “beyond a reasonable doubt” as applied in criminal cases, nor does affiliation require scientific certainty¹⁴. Most importantly, the ISM seeks all types of Tribal knowledge to guide its NAGPRA work.

- 2) *Please describe the process your institution undertakes to determine—*
 - a. *When there is sufficient evidence to proceed with repatriation; and*
 - b. *When a cultural item or ancestral remain is culturally unidentifiable*

The ISM determines there is sufficient evidence to proceed with repatriation when consultation occurs, available evidence is reviewed, and the preponderance of evidence leads to determination of cultural affiliation. The ISM neither requires nor waits for additional lines of evidence to proceed with determination, unless specifically requested by consulting Tribes. The ISM actively pursues

¹⁰ See Appendix A. A Resolution to Establish and Acknowledge That Institutions Engaging in Consultation for Repatriation of Ancestral Human Remains and Their Funerary Objects As Compliant and Not Subject to Penalty

¹¹ 43 CFR 10.14(d)

¹² 43 CFR 10.14(e)

¹³ Black’s Law Dictionary, 6th Edition

¹⁴ 43 CFR 10.14(f)



consultation with Tribes and frequently initiates the process, marking a change from how ISM carried out NAGPRA work in the past.

The ISM applies a broad understanding of the term “cultural affiliation,” and the only circumstances under which cultural items or ancestral remains may be designated culturally unidentifiable is when the collection in question has no geographic information and consulting Tribes do not offer folkloric, oral traditional, or other types of information to support a determination of affiliation. This is a significant departure from NAGPRA practice of the 1990s and demonstrates the evolving nature of the application of the law.

- 3) *Please describe the processes and methods your institution uses to gather and utilize Native traditional knowledge when determining the cultural affiliation of NAGPRA-eligible items or ancestral remains.*

“Native traditional knowledge” is not defined in NAGPRA, and the ISM does not compel consulting Tribes to share knowledge that may be sensitive or restricted. Folkloric and oral traditional lines of evidence as well as “other relevant information or expert opinion”¹⁵ are considered for cultural affiliation, and the ISM seeks and welcomes Tribal history that may be shared by Tribal Historic Preservation Offices (THPO), cultural preservation departments, and other culture keepers. For example, the ISM has received consultation documents from Tribes that may include information such as the location of their ancestral homelands, the archaeological traditions from which they are descended, and names of archaeological sites they claim. All such information may be rooted in Indigenous knowledge.

- 4) *Please provide examples of when your institution has used only Native traditional knowledge to culturally affiliate NAGPRA-eligible items or ancestral remains.*

As noted in the previous question, “Native traditional knowledge” is not defined in NAGPRA, but the ISM’s work is guided by the requests of Tribal Nations. A situation where the *only* information available for a collection is folkloric or oral traditional is rare. At the very least, geographic information is known at least to the level of state or region. For ancestral remains, biological or contextual information identifying the decedent as Native American is what leads to the reporting to National NAGPRA Program and notification to Tribes in the first place. This, however, in no way downplays the significant role of Native traditional knowledge but demonstrates that other lines of evidence are likely available for consideration.

- 5) *Please describe each allegation filed with the National NAGPRA Program regarding your institution’s failure to comply with NAGPRA, including a summary of the circumstances and outcomes of the allegation(s).*

¹⁵ 43 CFR §10.2



To date, no formal allegations of failure to comply with NAGPRA have been filed with the National NAGPRA Program against the ISM. In fact, the ISM has met the requirements of compliance¹⁶ with NAGPRA and makes every effort to ensure it maintains compliance under the future applicability rules¹⁷.

- 6) *Please describe the process your institution undertakes to complete summaries and inventories pursuant to 43 C.F.R. 20.8 [sic] and 43 C.F.R. 10.9, including the average length of time for completion and the average length of time to send the required Notice of Intent to Repatriate [sic] to the Manager of the National NAGPRA program.*

The ISM regularly receives requests for information from Tribal Nations regarding items in its archaeology and ethnographic collections and strives to respond in a prompt manner. Requests to consult may be received from one or more Tribes, or an invitation to consult may be sent by the ISM to Tribes. Any requests to consult (from Tribes on culturally unidentifiable human remains in the ISM's inventory) are responded to within 90 days, in accordance with NAGPRA regulations¹⁸. During this timeframe, the ISM staff compile information on the collection(s) in question, perform a physical collections check, prepare packets for consulting Tribes, confirm the contact information for Tribal representatives, and send formal consultation letters to Tribal Nations.

The process is dependent upon several factors, such as the level of interest from invited Tribes and their availability, specific requests made by consulting Tribes, and amount of documentation required to submit an updated summary or inventory along with a Notice of Intent to Repatriate or Notice of Inventory Completion, respectively. The ISM has led consultations that could be completed with emails and one virtual meeting, while others take years such as the Dickson Mounds case detailed previously. In every instance, the ISM listens to Tribes to carry out respectful and efficient returns. Once cultural affiliation is determined, a Draft Notice is sent to Tribes for review, then submitted to the Manager of the National NAGPRA Program. Per the National NAGPRA Program, the time from submission to repatriation may be four to six months if no competing claims are received.

- a. *For each summary prepared by your institution, please explain whether the determination listed in the summary as sacred, possibly sacred, patrimonial, or unassociated funerary object was made by i) museum staff or ii) in consultation with tribal representatives of iii) some combination of (i) and (ii).*

¹⁶ 43 CFR 10.12(b)

¹⁷ 43 CFR 10.13

¹⁸ 43 CFR 10.11(b)(i)



The determinations listed in summaries¹⁹ prepared by the ISM and published in the *Federal Register* were made by ISM staff in consultation with Tribal representatives, in accordance with NAGPRA regulations²⁰.

- b. For each inventory prepared by your institution, please explain whether the determination of human remains or associated funerary objects as either culturally affiliated or unaffiliated was made by i) museum staff or ii) in consultation with tribal representatives of iii) some combination of (i) and (ii).*

The determinations listed in inventories²¹ prepared by the ISM and published in the *Federal Register* were made by the ISM staff in consultation with Tribal representatives, in accordance with NAGPRA regulations²².

- 7) Please describe the process your institution undertakes to determine if cultural items or ancestral remains are not culturally affiliated, including the length of time, on average, it takes to notify the Manager of the National NAGPRA program.*

As explained previously, the ISM is shifting its internal culture and processes. The ISM has hired knowledgeable and committed staff, is establishing deeper relationships with Tribal partners, and is proactively engaging Tribal communities in NAGPRA consultations and collections care. This can be a time-consuming process, and we work as quickly, responsively, and appropriately with Tribal Nations as is practicable. For the reasons detailed under Questions 2 and 3, cultural affiliation may reasonably be determined for cultural items or ancestral remains in nearly every case.

- 8) Please explain any discrepancies between your institution's estimate of the number of cultural items and culturally unidentifiable remains in your institution's possession or control, and the number reported by the National NAGPRA Program.*

The ISM developed its original inventory for human remains in 1995²³ using relational database software tailored to the reporting requirements outlined in NAGPRA. The NAGPRA database consists of a single form file for entering and viewing data and five constituent table files for data storage. Each table file in the database contains a set of thematically related data fields: acquisition, human

¹⁹ *Fed. Reg.* Vol. 66, No. 35, p. 11042; Vol. 74, No. 182, pp. 48287-8

²⁰ 43 CFR §10.8

²¹ *Fed. Reg.* Vol. 62, No. 178, pp. 48303-4; Vol. 62, No. 184, p. 49726; Vol. 65, No. 141, p. 45398; Vol. 68, No. 195, pp. 58133-4; Vol. 68, No. 195, p. 58134; Vol. 68, No. 228, pp. 66486-7; Vol. 68, No. 230, pp. 67205-6; Vol. 77, No. 76, p. 23504; Vol. 78, No. 8, p. 2436; Vol. 79, No. 144, pp. 43770-1; Vol. 79, No. 144, pp. 43771-2; Vol. 79, No. 221, pp. 68465-6; Vol. 85, No. 56, pp. 16379-80; Vol. 86, No. 126, pp. 35528-9; Vol. 86, No. 135, p. 38115; Vol. 86, No. 174, pp. 80900-1; Vol. 86, No. 240, pp. 71662-3; Vol. 88, No. 86, pp. 28603-4; Vol. 88, No. 86, pp. 28609-10

²² 43 CFR §10.9

²³ National Park Service Grant No. 17-95-GP-056



remains, associated funerary objects, affiliation, and disposition. The aforementioned data fields detail the original location and acquisition of the materials, description of human remains, description and enumeration of associated funerary objects, antiquity of the materials and their ancestry and cultural affiliation, and disposition of materials, respectively.

The database is structured hierarchically such that the acquisition table is primary, and the four remaining tables are secondary. Each record receives an inventory number that provides a unique code which also functions as a key that relates each of the various database tables to one another. In most cases, each record in the database relates to the human remains and funerary objects associated with a single burial or set of human remains. The relational nature of the database is essential for compiling information from a large set of data and allows the user to create custom queries including any number of fields represented in the acquisition table or four sub-tables. Common searches include accession number (the ISM's legal designation for a collection), site number, site name, county of origin, and curation status. Several types of reports can be run using custom-built queries and then provided directly to Tribes and institutional partners. Data may also be exported in multiple formats, including Microsoft Excel spreadsheets, facilitating compilation of information in the format requested by the National NAGPRA Program. As the ISM is the repository for human remains found in Illinois greater than 100 years in antiquity, records include individuals of all ancestries. In cases where ancestry cannot be definitively determined, these records were nonetheless submitted, out of an abundance of caution, to the National NAGPRA Program during the ISM inventory.

The National NAGPRA Program maintains inventories using Microsoft Excel spreadsheets and presents collective information by site, whereas the ISM maintains a relational database where each individual receives their own record. Reporting to the National NAGPRA Program requires the ISM to aggregate its data and restrict it to the following fields: controlling institution or agency name, name of possessor or repository, site name, collection ID (the ISM uses accession number), geographic area (state), county, MNI (minimum number of individuals), AFO (number of associated funerary objects), inventory detail (collection history, age/culture, and description of AFO), and list of Tribes/NHOs consulted. Once the new information is shared with the National NAGPRA Program, it is copied or otherwise carried over into a different Excel database that already contains previously reported information. This effectively masks some of the detailed information contained in the ISM records, while also introducing the potential for transposition errors at multiple points. The National NAGPRA Program's database does not include a unique identifier field for each record. This means that any updates to information already reported must be made by changing the text color in the cell to red and keeping a running list of all changes. The ISM staff must check entries line by line and compare with the ISM's database for accuracy. The ISM makes every effort to keep its records up to date and inform the National NAGPRA Program of any changes to minimize errors between the databases.



- 9) *Please provide an inventory of any human remains that are in your possession, but controlled by another agency or institution. Please also note what effort, if any, has been taken to ensure the possession of these items comply with NAGPRA.*

The ISM meets the standards of curation for federally owned and managed collections²⁴ and has provided curatorial services for federal agencies since the 1990s. The ISM entered into a five-year contract²⁵ with the US Army Corps of Engineers (USACE) in 2017 to serve as the first regional repository for the Mississippi Valley Division. Provisions of this contract include submitting yearly reports to the USACE on assigned tasks, including any discoveries of human remains or associated funerary objects previously unreported in collections so the USACE may proceed with its NAGPRA responsibilities. Any inquiries regarding USACE collections are sent to the point of contact at the USACE district in question. With approval from the USACE, the ISM may facilitate access to collections and records. The USACE conducts regular facility visits and is responsible for NAGPRA compliance for these collections.

The ISM holds NAGPRA collections on behalf of the USACE – Kansas City District, USACE – St. Louis District, and US Fish and Wildlife Service – Region 3 (Midwest), and the ISM works with these agencies to verify that information regarding NAGPRA holdings is accurate.

Because collections are sometimes split between multiple institutions, the ISM works in cooperation with other institutions and agencies to determine which organization has legal control of a collection in the ISM's possession. Likewise, other museums may hold collections which are under the legal control of the ISM. Regular communication between organizations is frequent and imperative to locate portions of collections not currently housed at the ISM and then confirm which institution holds legal control of the collection. Inquiries received at the ISM related to NAGPRA are directed to the professional staff at the ISM for review and prompt response. The ISM does not carry out NAGPRA work in a silo, but rather maintains active partnerships, collaborations, and open communication with other institutions. We believe this cooperation between institutions helps expedite the NAGPRA process and we value these relationships.

The ISM will temporarily hold materials awaiting repatriation in its secure, climate-controlled facility on behalf of another institution, with permission from Tribal representatives. The ISM will also continue to hold cultural items and ancestral remains published in a Notice if requested by the claimant Tribe(s). The ISM is a temporary steward in such instances and cares for collections in a culturally sensitive manner as requested by the Tribes. These professional services are especially important in a removal state with no federally recognized Tribes. The costs associated with travel, reinterment, and associated ceremonies can be prohibitive without external funding. Moreover,

²⁴ 36 CFR 79

²⁵ Contract No. W912P9-17-D-0010



some Tribal representatives have shared that their Tribe does not have ceremonies for reburial or accepting sacred items back into circulation, and physical transfer of items must wait until the proper time.

The ISM appreciates the opportunity to provide the Senate Committee on Indian Affairs this update on our ongoing NAGPRA compliance work. Additionally, the ISM is very much committed to addressing past harms by working closely with Tribal Nations to determine the most appropriate outcome for their ancestors and cultural items. Successful repatriation under NAGPRA is a result of mutual trust and respect. The ISM will continue to listen to and learn from Tribal partners to cultivate lasting relationships and complete NAGPRA work that aligns with the spirit of the law and the desires of Tribal Nations.

Sincerely,

Natalie Phelps Finnie, Director
Illinois Department of Natural Resources

Jennifer Edginton, Interim Director
Illinois State Museum

Robert Sill, Director of Collections & Research
Illinois State Museum

Heather Miller, Director of Tribal Relations
Illinois State Museum
Wyandotte Nation Citizen

Brooke Morgan, PhD, Curator of Anthropology
Illinois State Museum

Logan Pappenfort, Curator of Anthropology
Dickson Mounds Museum
Peoria Nation Citizen



Attachment A



Miami Tribe of Oklahoma

P.O. Box 1326—Miami, Oklahoma 74355
Ph: 918-542-1445 Fax: 918-542-7260



RESOLUTION 23-13

**A RESOLUTION TO ESTABLISH AND ACKNOWLEDGE
THAT INSTITUTIONS ENGAGING IN CONSULTATION
FOR REPATRIATION OF ANCESTRAL HUMAN REMAINS
AND THEIR FUNERARY OBJECTS
AS COMPLIANT AND NOT SUBJECT TO PENALTY**

WHEREAS, the Miami Tribe of Oklahoma (“Tribe”) is a duly organized and federally recognized Indian Tribe under the Thomas-Rogers Oklahoma Indian Welfare Act of 1936, 49 Stat. 1967, and is governed by the terms of a Constitution and By-Laws originally approved by the Secretary of the Interior on August 16, 1939, and

WHEREAS, the Business Committee of the Miami Tribe of Oklahoma is authorized to enact Resolutions and act on behalf of the Miami Tribe under Article VI of the Constitution, and

WHEREAS, the Business Committee is authorized to take action to protect the health, well-being, and general welfare of the Tribe and its members and employees, and

WHEREAS, the Miami Tribe of Oklahoma, a federally recognized Indian tribe, has been conducting consultation for the repatriation of ancestral human remains and funerary objects, in accordance with NAGPRA law and its respective regulations, since 1992, and

WHEREAS, the Miami Tribe of Oklahoma believes that consultation, with regards to the Native American Graves Protection Repatriation Act (NAGPRA), is the combined efforts of tribal governments and institutions to coordinate and establish agreements relating to affiliation, repatriation and reinternment of ancestral human remains and funeral objects, and

WHEREAS, the Miami Tribe of Oklahoma believes that compliance is linked inseparably with consultation and an institution demonstrates compliance through consultation and repatriation, and

WHEREAS, the Miami Tribe of Oklahoma believes it has the right and obligation to our ancestors to conduct thorough, comprehensive consultation at the pace that the Tribe determines based on fiscal and logistical conditions, and



Attachment A (continued)

WHEREAS, the Miami Tribe of Oklahoma believes it has the right to determine the quantity of collections to consult for with each respective institution based on fiscal and logistic conditions, and

WHEREAS, the Miami Tribe of Oklahoma recognizes that neither the original NAGPRA law, nor the related regulations, possess a pro-active or preemptive enforcement capability and that such enforcement has been relegated to the Tribes by default or intent, and

WHEREAS, the Miami Tribe of Oklahoma understands that it possesses the authority to determine non-compliance through the utilization of the Notice of Non-Compliance complaints that are issued to National NAGPRA for the purpose of initiating an investigation, and

WHEREAS, the Miami Tribe of Oklahoma understands that it also possesses the authority to determine if an institution is compliant under NAGPRA law and the related regulations to the satisfaction of the Tribe, and

WHEREAS, the Miami Tribe of Oklahoma will not file Notice of Non-Compliance complaints against any institution currently engaged in good faith consultation with the Tribe for the repatriation of ancestral human remains and funerary objects, and

WHEREAS, the Miami Tribe of Oklahoma presents this resolution as a response to erroneous public media accusations of non-compliance directed at institutions that the Miami Tribe of Oklahoma is and has been in consultation with for the repatriation of ancestral human remains and funerary objects.

NOW THEREFORE BE IT RESOLVED, the list of institutions attached as Exhibit A reflects institutions the Miami Tribe of Oklahoma is engaged in current good faith consultation with as of June 20, 2023, for the repatriation of ancestral human remains and funerary objects.

BE IT FURTHER RESOLVED, the institutions listed in Exhibit A are COMPLIANT with Federal NAGPRA law and its related regulations to the satisfaction of the Tribe.

BE IT FURTHER RESOLVED, Indiana University, The Ohio History Connection, and Illinois State Museum accused of non-compliance through ProPublica stories are currently in consultation with the Miami Tribe of Oklahoma for the repatriation of ancestral human remains and funerary objects and are COMPLIANT with Federal NAGPRA law and its related regulations to the satisfaction of the Tribe.

BE IT FINALLY RESOLVED, after June 20, 2023, any institution that begins good faith consultation with the Miami Tribe of Oklahoma for the repatriation of ancestral human remains and funerary objects will be deemed COMPLIANT with Federal NAGPRA law and its related regulations to the satisfaction of the Tribe.

[Certification to Follow]



Attachment A (continued)

CERTIFICATION

I hereby certify that the foregoing Resolution 23-13 was passed at a Regular Meeting of the elected Business Committee of the Miami Tribe of Oklahoma on the 13th of June _____ 2023 with a vote of 5 for, 0 against, and 0 abstaining.


Douglas G. Lankford/Chief

ATTESTED:


Donya Williams, Secretary/Treasurer



Attachment A (continued)

EXHIBIT A

Compliant Institutions in Direct Consultation with the Miami Tribe of Oklahoma
As of 6-20-23

Indiana:

Indiana University
Indiana State Museum
Strawtown Kotewee Park
University of Indianapolis
Purdue University
Indiana National Guard – Muscatatuck
LaPorte County Museum
Cass County Museum
Tippicanoe County Historical Society and Museum

Ohio:

Ohio History Connection
Cincinnati Museum
University of Cincinnati
Cleveland State University
Ohio University (Athens)
Toledo Metroparks – Lucas County

Kentucky:

University of Kentucky
Western Kentucky University
Filson Museum
Wickliffe Mounds Historical Site
University of Louisville

Illinois:

University of Illinois
Illinois State Museum
Dickson Mounds Museum
Kankakee Museum

Michigan:

Michigan State University
USACE Detroit

Wisconsin:

Beloit College
University of Wisconsin – Milwaukee
University of Wisconsin – Oshkosh
Mukwonago Library



Attachment A (continued)

Missouri:
Southeast Missouri University
Culver-Stockton College
USACE St. Louis

Nebraska:
University of Nebraska State Museum

New York:
SUNY Bromfield

New Jersey:
Princeton University

Georgia:
Augusta Museum

Oklahoma:
Gilcrease Museum

Kansas:
Wichita State University