

Vinsonhale Blacksmith Shop (Nyssa MPS),  
122 Good Ave., Nyssa, 96000983

#### SOUTH CAROLINA

Greenville County

James, Louie, House, 401 W. Poinsett St.,  
Greer, 96000985

Richland County

Elmwood Cemetery, 501 Elmwood Ave.,  
Columbia, 96000984

#### WEST VIRGINIA

Marshall County

West Virginia State Penitentiary, 818  
Jefferson Ave., Moundsville, 96000987

Ritchie County

Bank of Cairo, Jct. of Main St. and former  
Baltimore and Ohio RR line, Cairo,  
96000986

#### WISCONSIN

Iowa County

Iowa Street Historic District, Roughly, Iowa  
St. from Division St. to Diagonal St.,  
Dodgeville, 96000991

Sauk County

Van Orden, Jacob, House, 531 4th Ave.,  
Baraboo, 96000988

Waukesha County

Weston's Antique Apple Orchard, 19760 W.  
National Ave., New Berlin, 96000989

Winnebago County

Smith, Hiram, House, 336 Main St., Neenah,  
96000990

[FR Doc. 96-21180 Filed 8-19-96; 8:45 am]

BILLING CODE 4310-70-P

### Draft Recommendations Regarding the Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice and Request for Comments.

Section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*) requires the Review Committee to recommend specific actions for developing a process for the disposition of culturally unidentifiable Native American human remains. The committee has given this matter great thought and has developed the enclosed draft documents outlining their positions. The enclosed documents are intended for wide circulation to elicit comments from Indian tribes, Native Hawaiian organizations, museums, Federal agencies, and national scientific and museum organizations.

Anyone interested in commenting on the committee's draft recommendations should send written comments to:

The NAGPRA Review Committee  
c/o Archeological Assistance Division  
National Park Service  
Box 37127, Suite 210  
Washington DC, 20013-7127

Comments received by October 15, 1996 will be considered by the committee at its next scheduled meeting. For additional information, please contact Dr. Francis P. McManamon at (202) 343-4101.

Note: We will not accept any comments in electronic form.

Enclosure

Dated: August 14, 1996.

Veletta Canouts,

*Acting, Departmental Consulting*

*Archeologist,*

*Deputy Chief, Archeology and Ethnography Program.*

### Draft Recommendations Regarding the Disposition of Culturally Unidentifiable Human Remains

#### Introduction

The Native American Graves Protection and Repatriation Review Committee is charged under section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (NAGPRA) with "compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains."

The committee issued a draft set of recommendations for guidelines regarding disposition of culturally unidentifiable human remains for public comment and review. One hundred twenty nine Indian tribes, Native Hawaiian organizations, scientific organizations, Federal agencies, individuals, and museums responded to this draft. Based on these responses, the committee concluded that disposition of a significant portion of Native American human remains listed as culturally unidentifiable for purposes of NAGPRA may possibly be decided through regulatory action. The committee believes that decisions regarding disposition of a small number of generally very ancient human remains will require amendments to NAGPRA by Congress.

#### Proposed Regulatory Language and Methods for Disposition of Culturally Unidentifiable Human Remains

By clarifying and defining the meaning of the statutory term, "shared group identity," the committee believes it is possible to decide disposition of many human remains presently classified as "culturally unidentifiable."

under NAGPRA. If "shared group identity" is interpreted to recognize that in several circumstances more than one Indian tribe or Native Hawaiian organization may share identity with prehistoric human remains or human remains associated with an earlier group then many of the problems regarding disposition of culturally unidentifiable human remains may be resolved.

"Shared group identity" has not, to date, been defined in statute or regulation. The term is central to the definition of "cultural affiliation" and thus is at the core of NAGPRA. By statute, "cultural affiliation" means "that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identified earlier group." There is nothing in this language to preclude more than one Indian tribe from establishing cultural affiliation through shared group identity to an earlier group. There are, in fact, many instances in which multiple Indian tribes claim or may show shared group identity. Thus, the committee proposes to define "shared group identity" to include the possibility of a relationship between more than one present day Indian tribe or Native Hawaiian organization and an earlier historic or prehistoric group.

The committee, therefore, proposes the following definition for "shared group identity."  
Shared group identity means a relationship between a present day Indian tribe or tribes and an earlier group based on: (1) direct historical links and/or (2) a combination of geographical, temporal, and cultural links. Geographical, temporal, and/or cultural links may be established through biological, archaeological, linguistic, folkloric, oral traditional, or other relevant information or expert opinion [see section 7 (a)(4) of the Act]. This definition provides for the possibility of more than one Indian tribe or Native Hawaiian organization establishing cultural affiliation with a prehistoric or earlier group. At the same time, it employs language and concepts already well established within the framework of NAGPRA.

Several points support this approach. It is likely that a substantial number of human remains will be classified as culturally unidentifiable. Many museums and Federal agencies recognize that while it may not be possible to affiliate individual human remains with a single Indian tribe, it is often possible to narrow the field to a few Indian tribes who are culturally affiliated with the human remains based on a preponderance of the evidence. The high number of human remains listed as culturally unidentifiable may

also reflect a lack of consistency regarding the use of the term "Indian tribe." For example, a set of human remains may be identified as "Sioux" while lacking a more precise identification linking them with one or another or several Sioux tribes. Finally, many cases in recent years provide a foundation for narrowing the number of individual human remains that are considered culturally unidentifiable. Specifically, in cases of prehistoric remains, there are several avenues for present day Indian tribes or Native Hawaiian organizations to establish shared group identity with prehistoric groups. For example, an Indian tribe or Native Hawaiian organization may not be able to establish an unbroken historical connection with a particular prehistoric culture, but may be able to establish shared group identity based on clear geographical and temporal ties to the area and time of the earlier group coupled with additional evidence, such as oral histories and other cultural traditions and lifeways.

Implementation of NAGPRA under this approach would be relatively straightforward and simple. Indian tribes, or tribes working at their discretion, in cooperation with museums or Federal agencies or other relevant experts, will be responsible for developing identifications of shared group identity with specific prehistoric cultures or earlier groups. Once an Indian tribe or tribes, or an Indian tribe and a museum or Federal agency, has compiled information establishing cultural affiliation based on shared group identity with a prehistoric culture or earlier group, they will notify the National Park Service of their claims. The National Park Service will compile a list of all human remains that have been initially identified as culturally unidentifiable. This list will be submitted to the committee and to Indian tribes. Guidelines for repatriation, as provided in existing NAGPRA statutes and regulations, will apply. Indian tribes may request repatriation, based on their claims and based on agreements among claimants regarding proposed disposition of such human remains. Museums or Federal agencies will evaluate and act upon the claims, as outlined in NAGPRA statutes and regulations. The proposed process will be further simplified in practice since several Indian tribes have already established regional or cultural associations based on shared group identity with human remains in the possession or control of museums and Federal agencies.

#### Issues Requiring Amendments to NAGPRA by Congress

1) Non-Federally Recognized Native American Groups: The definition of "Indian tribe" used in NAGPRA limits participation in the NAGPRA process to Indian tribes who are currently recognized as tribes by the Bureau of Indian Affairs. Many Native American groups are not presently Federally recognized through accidents of political rather than cultural history. While mechanisms have been developed to provide some access to NAGPRA for non-Federally recognized Native American groups, the committee recommends that the Secretary urge Congress to amend NAGPRA to provide a means whereby legitimate, non-Federally recognized Native American groups may participate in NAGPRA.

2) Culturally unidentifiable associated funerary objects: NAGPRA, as currently framed, does not provide for repatriation of culturally unidentifiable associated funerary objects. The committee recommends that the Secretary urge Congress to amend NAGPRA to provide for a means for Indian tribes or Native Hawaiian organizations to repatriate associated funerary objects along with human remains when several Indian tribes have established cultural affiliations and joint agreements for disposition of such human remains and their associated funerary objects, as outlined in the section above.

#### Conclusion

The committee believes that the steps outlined above provide viable solutions to otherwise complex and vexing problems. Comments from the field were valuable in helping the committee pursue a very different set of potential solutions from those offered in the first draft. We look forward to receiving additional comments and suggestions prior to making our final recommendations to the Secretary of the Interior regarding disposition of culturally unidentifiable human remains.

#### **Draft Recommendations for the Disposition of Human Remains Culturally Affiliated with Non-Federally Recognized Native American Groups**

The Native American Graves Protection and Repatriation Review Committee is charged under section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (NAGPRA) with "compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal

agency and museum and recommending specific actions for developing a process for disposition of such remains."

In the course of holding meetings across the United States and hearing public commentary from many groups and individuals, the review committee has come to recognize that there are different kinds of remains that may be classified as "culturally unidentifiable" under the definitions and requirements of NAGPRA. One particular subgroup are those remains that are culturally affiliated with Native American groups which are not formally recognized by the Bureau of Indian Affairs (BIA) as "Indian tribes". Examples of such non-Federally recognized Native American groups might include groups recognized by individual States; ones that were once recognized by the BIA but for various reasons no longer have such recognition; or ones that have applied for BIA recognition but have not yet been reviewed or approved. (This list is intended to give examples only, and it not meant to be inclusive or definitive.) In these cases, the remains are only "culturally unidentifiable" because the definition of "Indian tribe" has been interpreted by the Department of the Interior to mean only those groups that have received formal recognition by the BIA. The review committee believes that it may be necessary to amend the statute in order to fully enfranchise these non-Federally recognized Native American groups with all rights and responsibilities accorded by NAGPRA to Federally recognized Indian tribes. In the absence of such an amendment, the review committee recommends that general guidelines can be added to the current regulations which will encourage non-Federally recognized Native American groups to work cooperatively with museums, Federal agencies and Federally recognized Indian tribes and allow for the repatriation of culturally affiliated human remains and associated funerary objects.

The review committee has reviewed four cases to date involving non-Federally recognized Native American groups and has made recommendations to the Secretary of the Interior to approve the repatriation of human remains to these groups. Two of these cases—the Robert S. Peabody Museum of Archaeology at Phillips Academy repatriation to the Mashpee Wampanoag and the Hood Museum of Art at Dartmouth College repatriation to the Abanaki Nation—have been completed with the required Notices of Inventory Completion published in the *Federal Register*. Until such time as the statute is amended to provide full standing to

non-Federally recognized Native American groups, the review committee recommends the following five step process:

a. Museums and Federal agencies that believe they possess human remains culturally affiliated with non-Federally recognized Native American groups are encouraged to notify these groups and work with them to reach agreement on possible repatriation of those human remains. Museum and Federal agencies should use the statute and regulations to assess the potential cultural affiliation of non-Federally recognized Native American groups with specific human remains. Determinations should be based on a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion [25 U.S.C. 3006 (c)(4)].

b. Non-Federally recognized Native American groups are encouraged to work with museums and Federal agencies to reach agreement on possible repatriation of human remains.

c. In discussions over the possible repatriation of human remains to non-Federally recognized Native American groups, the group and the museum or Federal agency holding the human remains are encouraged to consult with all Federally recognized Indian tribes who may have an interest in the geographic area from which the remains originated.

d. When agreement is reached to repatriate human remains to a non-Federally Native American group, this agreement should be submitted to the review committee for consideration. The review committee will then review the facts and circumstances of the case and make a recommendation on the repatriation to the Secretary of the Interior. If the Secretary agrees with the recommendations, he will recommend to the museum or agency to proceed with the repatriation.

e. If the decision is made to proceed with the repatriation, a Notice of Inventory Completion will be published in the *Federal Register*, with a waiting period of 30 days prior to the actual repatriation of the human remains.

These five steps are intended to provide a general process for non-Federally recognized Native American groups to work cooperatively with museums and Federal agencies to repatriate human remains with which they share group identity. They should not be interpreted as introducing new compliance requirements for museums and Federal agencies. The review committee believes that the above

observations and recommendations provide viable solutions to otherwise complex and vexing problems. Public comments were invaluable in helping pursue a very different set of potential solutions from those offered in the first draft. The review committee looks forward to receiving additional comments and suggestions prior to making final recommendations to the Secretary of the Interior regarding the disposition of cultural unidentifiable human remains.

[FR Doc. 96-21105 Filed 8-19-96; 8:45 am]

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#### **Notice of Inventory Completion for Native American Human Remains in the Possession of Olympic National Park, Port Angeles, WA**

**AGENCY:** National Park Service.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of the inventory of human remains in the possession of the National Park Service at Olympic National Park, Port Angeles, WA.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Makah Tribal Council.

Prior to 1952, human remains representing one adult individual were recovered from a site located within the Makah Indian Reservation, and donated to the park in 1952 by Mr. Fred Pennoyer. Mr. Pennoyer stated he removed the skull at "the Makah site of Waatch." No known individual was identified. No associated funerary objects are present.

The Makah site of Waatch was archeologically documented in 1947 by Richard Daugherty as being affiliated with the Makah Indian Tribe. A C-14 sample from the site yielded a date of approximately 4,000 years BP. Numerous historical documents confirm Makah occupation of the site well into the historic period. The National Park Service has interpreted these data to indicate a continuity of Makah occupation of this site. These remains are believed to date to the Makah occupation of the site. Visual examination of the human remains indicate they are Native American.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the

physical remains of one individual of Native American ancestry. Park officials have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the human remains and the Makah Indian Tribe of Washington.

This notice has been sent to officials of the Makah Tribal Council. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Mr. David Morris, Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362; telephone: (360) 452-4501, ext. 310 before September 19, 1996. Repatriation of the human remains to the Makah Indian Tribe may begin after that date if no additional claimants come forward.

Dated: August 14, 1996.

Veletta Canouts,

*Acting Departmental Consulting Archeologist,*

*Deputy Chief, Archeology and Ethnography Program.*

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#### **Bureau of Reclamation**

##### **Review of Existing Coordinated Long-Range Operating Criteria for Colorado River Reservoirs**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Operating Criteria for Colorado River Reservoirs (Operating Criteria), promulgated pursuant to Public Law 90-537, were published in the Federal Register on June 10, 1970. The Operating Criteria provided for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty. The existing Operating Criteria are included at the end of this notice. Written comments are invited from the public as to whether the Operating Criteria should be modified.

**DATES:** Written comments must be received by October 18, 1996.

**ADDRESSES:** Written comments may be mailed to: Regional Director, Lower Colorado Region, Bureau of