

MINUTES
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA) REVIEW
COMMITTEE
NINETEENTH MEETING: APRIL 2-4, 2000 JUNEAU, ALASKA

The nineteenth meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Mr. Martin Sullivan at 9:30 a.m., Sunday, April 2, 2000, at the Centennial Hall Convention Center, Juneau, Alaska. The following Review Committee members, National Park Service (NPS) staff, and others were in attendance:

Members of the Review Committee:

Mr. Martin Sullivan, Chair
Mr. James Bradley
Mr. Lawrence Hart
Ms. Vera Metcalf
Mr. Armand Minthorn
Ms. Tessie Naranjo
Mr. John O'Shea

National Park Service staff present:

Ms. Katherine Stevenson, Associate Director, Cultural Resource Stewardship and Partnerships, Washington, D.C. (by teleconference)
Mr. John Robbins, Assistant Director, Cultural Resources Stewardship and Partnerships, Washington, D.C.
Mr. C. Timothy McKeown, NAGPRA Program Leader, Washington, D.C.
Ms. Carla Mattix, Solicitor's Office, Department of the Interior (DOI), Washington, D.C.
Ms. Lesa Hagel, NAGPRA Consultant, Rapid City, South Dakota

The following were in attendance during some or all of the proceedings:

Mr. Fredrick Anderson, Native Village of Naknek, Naknek, Alaska
Ms. Susan Anderson, The CIRI Foundation, Anchorage, Alaska
Mr. Roger Anyon, Repatriation Review Committee, Smithsonian Institution, Tucson, Arizona
Mr. Herbert O. Anungazuk, National Park Service, Anchorage, Alaska
Ms. Julia Baker, University College London Institute of Archaeology, London, England
Ms. Graciela Barajas, Tohono O'odham Nation, Sells, Arizona
Mr. Mark Boatwright, Bureau of Indian Affairs, Juneau, Alaska
Ms. Judy Brown, Tlingit, Huna Snail House, Juneau, Alaska
Ms. Beatrice Brown, Hoonah Indian Association, Hoonah, Alaska
Ms. Alexis Burten, Aleut, Juneau, Alaska
Ms. Donna Cossette, Fallon Paiute-Shoshone Tribe, Fallon, Nevada
Mr. Richard Dalton, Sr., T'akdeintaan, Hoonah, Alaska
Ms. Rochanne Downs, Fallon Paiute-Shoshone Tribe, Fallon, Nevada
Ms. Irene Dundas Shields, Cape Fox Corporation, Ketchikan, Alaska
Ms. Kolene Dunne, University of Alaska Southeast, Juneau, Alaska
Ms. Marguerite Edwards, Puyallup Tribe, Tacoma, Washington
Ms. Cheryl Eldemar, Tlingit, Juneau, Alaska
Ms. Linda Fabbri, University of California, Berkeley, California
Mr. Arron Felleur, Juneau, Alaska
Mr. Terry Fifield, Tongass National Forest, Craig, Alaska
Ms. Dale Ann Frye Sherman, Yurok Tribe, Eureka, California
Mr. Eric Gerber, Pechanga Cultural Committee, Temecula, California
Ms. Myra Giesen, Bureau of Reclamation, Lawrence, Kansas
Ms. Martha Graham, American Museum of Natural History, New York, New York
Mr. Kenneth Grant, Hoonah Indian Association, Hoonah, Alaska
Mr. Norman Harry, Pyramid Lake Paiute Tribe, Nixon, Nevada
Ms. Carol Ann Hawks, Puyallup Tribe, Tacoma, Washington

Mr. Steve Henrikson, Alaska State Museum, Juneau, Alaska
Mr. Brent Hicks, Colville Tribes History Department, Nespelem, Washington
Mr. Ernest Hillman, Huna Heritage Foundation, Juneau, Alaska
Ms. Susan Hirano, University of California, Berkeley, California
Ms. Andrea A. Hunter, Repatriation Review Committee, Smithsonian Institution, Northern Arizona University, Flagstaff, Arizona
Ms. Mary Irvine, Alaska State Museum, Juneau, Alaska
Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, Massachusetts
Mr. Richard Jackson, Tongass Tribe, Ketchikan, Alaska
Mr. Joseph T. Joaquin, Tohono O'odham Nation, Sells, Arizona
Ms. Maureen Johnson, Huna Heritage Foundation, Juneau, Alaska
Ms. Cheryl Johnston, Ohio Historical Society, Columbus, Ohio
Mr. Bruce Kato, Alaska State Museum, Juneau, Alaska
Mr. David Katsic, Tlingit, Alaska
Mr. Tom Killion, National Museum of Natural History, Smithsonian Institution, Silver Spring, Maryland
Ms. Carolyn Kinsey, ASACE, St. Louis, Missouri
Ms. Anna Kiss, Chicago, Illinois
Ms. Melinda Knapp, Ohio Historical Society, Columbus, Ohio
Mr. David Kwail, Yavapai Apache Nation, Camp Verde, Arizona
Ms. Patricia Lambert, American Association of Physical Anthropologists, Logan, Utah
Ms. Lena Landry, Puyallup Tribe, Tacoma, Washington
Mr. M. Joseph Leahy, Huna Heritage Foundation, Juneau, Alaska
Ms. Leslie Longenbaugh, Sealaska, Juneau, Alaska
Ms. Diana Loren, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, Massachusetts
Mr. Jon Loring, Juneau, Alaska
Mr. Edward Luby, University of California at Berkeley, Berkeley, California
Mr. Bob Maguire, Denakkanaaga, Fairbanks, Alaska
Ms. Gail Mapiha'a, Sealaska Heritage Foundation, Juneau, Alaska
Ms. Aurelia Marruffo, Pechanga Indian Reservation, Temecula, California
Mr. John G. Martin, Sr., Little Tenaktak Tribe, Juneau, Alaska
Ms. Susan Marvin, U.S. Forest Service, Juneau, Alaska
Mr. Benjamin Masiel, Pechanga Cultural Resources, Temecula, California
Ms. Rachel Mason, National Park Service, Anchorage, Alaska
Mr. Mark McCallum, Tongass National Forest, Petersburg, Alaska
Mr. Alfred McKinley, Sr., Wooshkeetaan, Juneau, Alaska
Mr. Bob Metcalf, Nome, Alaska
Ms. Lynette Miller, Washington State Historical Society, Tacoma, Washington
Ms. Rosa Miller, Auk Kwaan, Juneau, Alaska
Mr. Patrick Mills, Huna Tribe, Hoonah, Alaska
Mr. Thomas L. Mills, Sr., Tlingit, Snail House, Hoonah, Alaska
Ms. Kathy L. Mills Marvin, Tlingit, Snail House, Hoonah, Alaska
Ms. Fawn Morris, Yurok Tribe, Eureka, California
Mr. Alvin Moyle, Fallon Paiute-Shoshone Tribe, Fallon, Nevada
Ms. Elena Munetz, Tlingit, Huna, Juneau, Alaska
Ms. Nancy Odegaard, University of Arizona, Tucson, Arizona
Mr. Refugio Ortez, Ysleta del Sur Pueblo, El Paso, Texas
Mr. Richard Owl, Ysleta del Sur Pueblo, El Paso, Texas
Ms. Diane Palmer, Cape Fox Corporation, Ketchikan, Alaska
Ms. Virginia Rooney, Wrangell IRA, Wrangell, Alaska
Ms. Alyce Sadongei, Arizona State Museum, Tucson, Arizona
Mr. Gary Selinger, University of Alaska Museum, Fairbanks, Alaska
Mr. G. R. Singer, American Museum of Natural History, New York, New York
Mr. Chuck Smythe, National Museum of Natural History, Smithsonian Institution, Washington, D.C.
Mr. Walter Soboleff, L'eeneidi, Angoon, Alaska
Ms. Yarrow Vaara, Tlingit, Juneau, Alaska

Ms. Anne Marie Victor-Howe, Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, Massachusetts
Ms. Grace Villarreal, Tlingit, Huna Heritage Foundation, Hoonah, Alaska
Mr. Frank D. Williams, Jr., Tlingit, Snail House, Mt. Fairweather House, Juneau, Alaska
Mr. Ron Williams, Huna Heritage Foundation, Juneau, Alaska
Ms. Rosita Worl, Tlingit, Sealaska Heritage Foundation, Juneau, Alaska
Ms. Judy Wright, Puyallup Tribe, Tacoma, Washington
Ms. Pemina Yellow Bird, Mandan, Hidatsa and Arikara Nation, Belcourt, North Dakota
Ms. Allison Young, Aleutian/Pribolof Islands Association, Anchorage, Alaska

Mr. Sullivan welcomed the review committee members and members of the audience, and expressed appreciation for the efforts made by everyone to attend the meeting. Mr. Richard Dalton, Sr., T'akdeintaan, Hoonah, Alaska, gave the opening invocation.

Mr. Robbins welcomed the review committee members, thanked them for their efforts regarding the implementation of NAGPRA, and expressed appreciation for the work of Ms. Naranjo and Mr. Sullivan, whose terms will conclude in June 2000. He welcomed the audience members and explained that the review committee meetings, which are business meetings for the review committee, are open to the public with scheduled public comment periods.

Review of the Agenda

Mr. Sullivan gave a brief review of the agenda.

Welcome

Ms. Rosita Worl welcomed the review committee and audience members and acknowledged members of the Smithsonian repatriation review committee and members of other Indian tribes present at the meeting. Ms. Worl explained she is from the Thunderbird Clan, from the House Lowered From the Sun, and a child of the Sockeye Clan from Klukwan. She commended NAGPRA as having a profound effect on Native people by rectifying wrongs done to Native Americans, offering hope for Native American people to revitalize and strengthen their culture, offering the return of the spirits of ancestors to their homeland, and providing an opportunity for Native Americans to work with others to build and increase their science. Ms. Worl expressed appreciation for the work of the review committee members.

Implementation Update

Mr. Robbins explained that an agreement was reached between the NPS and the DOI regarding restructuring of the NAGPRA program within the NPS. As part of the restructuring, the review committee's Designated Federal Official will be the Assistant Director, Cultural Resources Stewardship and Partnerships. This change will be made in the review committee's charter when it is renewed in November 2000. For purposes of the Juneau review committee meeting, Mr. Frank McManamon, Departmental Consulting Archeologist, delegated the function of Designated Federal Official to Mr. Robbins. Under the restructuring, NAGPRA implementation will be divided into Park NAGPRA, implementation of NAGPRA within the NPS, and general NAGPRA, implementation of NAGPRA beyond the NPS. Mr. McManamon and Ms. Veletta Canouts, Deputy Program Manager for Archeology and Ethnography, will supervise the Park NAGPRA functions. Mr. Robbins will supervise general NAGPRA functions.

Ms. Katherine Stevenson, participating by teleconference, addressed the review committee and explained that the changes described by Mr. Robbins were the result of appeals to have someone other than a scientist responsible for non-Park NAGPRA and to involve more Native people in the NAGPRA process. Ms. Stevenson then explained further changes resulting from these appeals. To address the issue of backlog in publishing Federal Register notices, additional funds have been made available this year to hire temporary personnel, with the hope that the 2001 budget will include a permanent increase in funding to enable the hiring of permanent employees. Ms. Stevenson explained that an advisory group from the various Assistant Secretaries' offices has been developed within the DOI to provide

advice and different points of view on issues within the DOI. Finally, because of the perception of conflict of interest, any time a formal dispute involving a NPS matter comes before the review committee, Mr. Robbins will absent himself and another Federal official from an agency other than the NPS will be delegated as the Designated Federal Official.

Ms. Metcalf asked about the source of the additional funding. Ms. Stevenson explained that \$195,000 came from NPS funds for the current year and a \$400,000 increase in base funding of the program was requested in next year's budget. In response to Mr. Sullivan's specific questions regarding the hiring of additional staff, how quickly training can be accomplished, whether the staff would be contractors or permanent employees, and whether efforts have been made to hire Native Americans, Mr. Robbins explained that none of the NAGPRA program experience will be lost, and added that although Park NAGPRA and general NAGPRA implementation will be separate, staff will be able to further utilize experience by consulting with each other. He explained that some of the new staff may have repatriation experience from other institutions and that until permanent funding is available, staff would be hired as contractors. Mr. Robbins added that diligent efforts have been made to identify candidates who are Native American.

Mr. Minthorn expressed concern about the review committee's lack of involvement in the restructuring discussions and decisions. Ms. Stevenson stated she would value suggestions from the review committee members regarding candidates for permanent positions, priorities within the program, and the workplan; however, personnel issues need to be considered under Federal personnel procedures. Mr. Bradley asked about the assignment of current staff, and specifically whether there would be enough continuity to assure that the backlog and other priorities would not get lost in the administrative shuffle. Mr. Robbins responded that discussions between the NPS personnel office and union staff were in progress and should conclude within the next couple of weeks. He explained that he supervises the Archeology and Ethnography, Museum Management, and other programs within the NPS and therefore general NAGPRA implementation will be able to draw upon the broad expertise of a number of programs. Mr. Bradley clarified that the review committee was concerned about personnel issues to the extent that the momentum gained over the last ten years in the program needs to continue. Mr. Minthorn suggested Ms. Stevenson attend the next review committee meeting and again stressed the importance of the review committee's involvement in the restructuring and the program's continued progress and momentum.

Mr. Sullivan explained that at the last meeting the review committee requested monthly updates on the progress of implementation, the status of the backlog, and copies of correspondence, and would again like to request to receive these monthly updates. Ms. Stevenson replied that she would work with Mr. Robbins on that request. In response to a question by Ms. Metcalf regarding funding, Mr. Robbins explained that the Kennewick project is funded by the U.S. Army Corps of Engineers and not the NPS. In response to a concern of Mr. Hart, Mr. Robbins clarified that Ms. Mattix's legal advice was provided through the Solicitor's Office at the DOI level and not at the NPS level, and would therefore not be affected during disputes involving NPS units.

Ms. Naranjo asked what would happen if the request for a permanent increase in funding were denied. Ms. Stevenson explained that she is extremely hopeful as this is the first request to be made part of the President's budget, but added that if the request is not approved, funds are not available from another source. Ms. Naranjo then expressed concern regarding lack of continuity in the restructuring. Mr. Sullivan stated that the review committee was advised at the Salt Lake City meeting that regulations were being developed on inadvertent discoveries and planned excavations and asked about their current status. Mr. Robbins explained that was an issue that would be addressed by the increased staff. Mr. Bradley explained that at the Salt Lake City meeting, the review committee asked for, and Mr. McManamon agreed to provide, copies of the NAGPRA program budget for FY99 and FY00. Ms. Stevenson agreed that information could be provided with the exception of specific salary information, and clarified that the \$195,000 figure was developed from an actual budget and included, among other expenses, the cost to publish notices in the Federal Register.

On behalf of the review committee, Mr. Sullivan thanked Ms. Stevenson for her update and on behalf of Ms. Naranjo and himself, expressed both appreciation for the efforts made to date on NAGPRA implementation and concern over the growing backlog. Ms. Stevenson expressed appreciation to both Ms. Naranjo and Mr. Sullivan for their roles as founding members of the review committee and her hope that they both would continue to be involved with NAGPRA.

Mr. Robbins explained that each review committee member had a summary in their binder of the progress made in NAGPRA implementation to date. Mr. Sullivan expressed concern that along with the growing backlog of publication of Federal Register notices, that the databases for summaries and inventories also were falling behind. Mr. McKeown stated that there is no database for notices of inadvertent discoveries and planned excavations, which Federal agencies are required to publish twice in a newspaper of general readership to notify possibly affected Indian tribes and Native Hawaiian organizations. He explained that information regarding summaries from 98 out of a total of 1,042 institutions was entered into a database. No work has been done on that database for some time due to other issues. Inventories have been received from 736 institutions and information has been entered into the database for 64, including 7 entered by Ms. Hagel since the Salt Lake City meeting. Mr. O'Shea suggested developing a database for inadvertent discoveries and planned excavation notices and suggested utilizing electronic versions of inventories as a basis for speeding up completion of the inventory database.

Mr. Robbins explained that with the increased staff, the civil penalties interim regulations will be developed into final regulation, hopefully within the next six months. The DOI is considering drafting regulations for the intentional excavations and inadvertent discoveries section instead of developing guidelines. The review committee would be consulted at the beginning of that process. Ms. Mattix added that the DOI is just starting the process of developing a Notice of Proposed Rulemaking and so no draft is circulating. When the process reaches that stage, the law requires consultation with the review committee, Native American groups, and members of the museum and scientific communities, in addition to the regular notice and comment requirements. Mr. McKeown explained there was a summary of the various trafficking cases prosecuted under 18 U.S.C. 1170 (a) and 1170 (b). To date, 11 individuals have been successfully prosecuted, 1 twice.

Mr. Bradley and Mr. Sullivan expressed the review committee members' consensus that civil penalties and Federal agency compliance are a priority and need to move forward in tandem. Mr. Minthorn emphasized that continuity in staffing will help Mr. Robbins in his position as Designated Federal Official. Mr. Bradley expressed concern about the longevity of the assignment of the position of Designated Federal Official for the review committee to the Assistant Director. Mr. Robbins explained that the decision to continue this assignment was confirmed at an advisory group meeting just a few days prior to the review committee meeting. Mr. O'Shea asked that review committee members be provided with a copy of the agreement between the DOI and the NPS describing the restructuring, which was provided by Mr. Robbins later in the meeting. Mr. Robbins agreed that any questions or concerns by the public about the NAGPRA program could be directed to him. Ms. Naranjo and Mr. Minthorn expressed concern about the review committee members' lack of involvement in the restructuring, including the fact that members were not provided information regarding the restructuring until just shortly before the review committee meeting.

Mr. Robbins reviewed the items on the review committee action list from the Salt Lake City meeting that were not completed prior to the meeting. A letter needs to be sent to the Corps of Engineers and the Pechanga regarding their dispute, which Ms. Mattix will address immediately following the meeting. A briefing needs to be made to the Assistant Secretary of Fish and Wildlife and Parks regarding Washington College, for which a meeting is scheduled for the week following the review committee meeting. Mr. Sullivan pointed out the added concern of possible statute of limitations issues regarding this case, which Ms. Mattix will confirm. For the Satanta shield issue, Ms. Linda Fabbri, University of California, Berkeley, explained that a long-term loan agreement is in progress between the parties. The committee members asked for a monthly update detailing the current status of the backlog in Federal notice publication, the status of the six institutions under forbearance, budget issues, appropriations and actual expenditures, incoming correspondence, and the workplan. Mr. Robbins agreed to provide the review committee members with an update of the status of the forbearance institutions following the meeting. The outstanding item concerning the development of draft guidelines for inadvertent discoveries and planned excavations was previously addressed by Ms. Mattix as being replaced by the development of regulations, and the issue of whether Federal agencies can be required to prepare discovery plans will be considered during this process. The issue of documentation of Federal agency policies regarding the hiring of Native American religious leaders as experts or expert consultants will be included at a future meeting when the review committee considers Federal agency compliance. Mr. Sullivan proposed discussing the response to the Hopi Tribe regarding notices by Mesa Verde National Park and Aztec National Monument later in the agenda when the review committee considers the letter from the regional director of the NPS concerning the review committee's finding on the Chaco Canyon National Historical Park and the Hopi Tribe dispute.

Discussion of Status of Dispute Between the Hopi Tribe and Chaco Culture National Historical Park

Mr. Sullivan summarized the contents of the letter sent by Ms. Karen Wade, Intermountain Region, NPS, which basically stated that the Intermountain Region cannot support the review committee's findings and recommendations, which the Intermountain Region believes reach beyond the statutory authority of the review committee and its procedures and do not address what the review committee is responsible for reviewing, the determination of cultural affiliation of particular human remains and cultural items. Review committee members expressed extreme concern over the letter and asked to what extent regions of the NPS can independently make such a conclusion and the extent to which that then becomes policy. Ms. Mattix explained that the review committee members' recommendations are not binding and Ms. Wade was able to independently make a decision under the structural organization of the NPS. Although Ms. Mattix explained that this one region does not speak for the policy of the DOI, review committee members expressed concern over the precedent-setting nature of the position taken by the Intermountain Region. Mr. Bradley expressed frustration that the process was directed under the auspices of the NPS and then another portion of the NPS stated that the review committee was profoundly flawed in their application of the law. Mr. Minthorn added that the review committee's recommendations need to be considered as a function of the DOI as a whole in order to preserve the process that was developed to accommodate Indian tribes, museums, and universities. Ms. Naranjo expressed concern about the length of time taken by the NPS from receipt of the letter by Ms. Wade to its distribution to the review committee members. The review committee members agreed to send a letter to the Secretary of the Interior to clarify the status of recommendations made by the review committee and how the recommendations will be implemented by agencies within the DOI.

Discussion of Requests Regarding the Disposition of Culturally Unidentifiable Human Remains

Eight Individuals in the Control of the U.S. Forest Service, Florida: Ms. Susan Marvin presented a one-page summary of the request on behalf of Ms. Rhonda Kimbrough, U.S. Forest Service archeologist, Florida. The Forest Service acquired a tract of land within the Ocala National Forest on May 11, 1990.

Human remains collected from the general area while the property was under private ownership were discovered in a collapsed shed on the property. Due to lack of provenience information, the human remains, representing a minimum number of eight individuals, were considered culturally unidentifiable, with no scientific value for further study. The human remains were presumed to be Native American as the land where they were found is a large, deeply stratified, aboriginal occupation site and human dental remains are consistent with those of Native American aboriginal inhabitants. The Forest Service initiated consultation with the Miccosukee Tribe of Florida, the Seminole Nation of Oklahoma and the Seminole Tribe of Florida, who ultimately reached consensus to repatriate the human remains to the Miccosukee Tribe of Florida. A formal claim for the human remains was made on January 28, 2000. Independent traditionalists also participated in the consultation. Since the human remains were considered culturally unidentifiable, the Forest Service extended an offer to consult with every Federally recognized Indian tribe in the southeastern United States. Respondents recommended that the Forest Service continue consultation with the above-listed Indian tribes. The Forest Service is asking for the review committee members' recommendation to authorize the repatriation of the human remains to the Miccosukee Tribe of Florida.

Mr. Minthorn expressed concern over the information used to make a determination that the human remains were Native American and the level of expertise consulted in making the determinations. Mr. McKeown explained that since the land was acquired before the enactment of NAGPRA, the human remains became part of the Forest Service collection. He added that the human remains were found within the aboriginal territory of the Seminole Tribes. Mr. Minthorn clarified that he supported the repatriation and did not wish to slow the process down, but he had concerns with the Forest Service's being out of compliance with NAGPRA in other instances. Ms. Naranjo and Ms. Metcalf wanted to clarify that Mr. Bobby C. Billie, an independent traditionalist representative, was in favor of the repatriation.

Mr. Hart stated that Mr. Billie seemed to favor this repatriation through his correspondence with the review committee. Mr. O'Shea stated that although he shared some of Mr. Minthorn's concerns and would like to have more specific site information, he felt that the Forest Service acted correctly in this process by determining the human remains to be culturally unidentifiable, assessing the value of the human remains to science, and consulting broadly. The review committee members unanimously agreed to recommend repatriation of the eight individuals in

the control of the Forest Service to the Miccosukee Tribe of Florida. A letter to Ms. Marsha Kearney, Forest Supervisor, detailing the recommendation was drafted at the meeting.

Four Individuals in the Control of the Washington State Historical Society: Ms. Marguerite Edwards, Puyallup tribal council member and vice-chair of the repatriation committee, explained that the Puyallup Tribe previously repatriated two Puyallup individuals and seven coastal individuals from the Washington State Historical Society. The Puyallup Tribe is seeking to repatriate the four remaining culturally unidentifiable human remains at the Washington State Historical Society. The Puyallup Tribe notified all Indian tribes in the country of their intention to repatriate the human remains and received 42 letters of support and 1 letter of objection, which was later rescinded. Ms. Edwards read letters of support from the Tulalip Tribe, the Chitimacha Tribe of Louisiana, the Sac and Fox Nation of Oklahoma, and the Hoonah Indian Association.

The review committee members unanimously agreed to recommend repatriation of the four individuals in the control of the Washington State Historical Society to the Puyallup Tribe. A letter to Ms. Lynette Miller, Washington State Historical Society, detailing the recommendation was drafted at the meeting.

Discussion of Draft Principles of Agreement Regarding the Disposition of Culturally Unidentifiable Human Remains

Mr. Bradley and Mr. Sullivan gave a brief review of the history of review committee discussions concerning culturally unidentifiable human remains, including the previous attempts at forming recommendations. Mr. Sullivan explained that several elements from the first drafts continue to be important, including the belief that the processes of resolving disposition should be guided by Native Americans, an attempt to distinguish different ways in which the human remains of Native people have become culturally unidentifiable, and encouragement for regional solutions for addressing questions of ancestral occupancy of land. Mr. McKeown summarized the review committee's responsibilities under Section 8 of the statute to compile an inventory of culturally unidentifiable human remains in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such human remains. The review committee members agreed that given the expiration of Ms. Naranjo's and Mr. Sullivan's terms they would strive to reach a consensus regarding the draft principles at this meeting. Mr. Bradley then read draft five of the draft principles of agreement regarding disposition of culturally unidentifiable human remains, which was substantially similar to the version published in the Federal Register for comment.

The review committee members discussed the draft and, based upon their comments and comments from the audience, made several changes. The review committee members agreed to expand on the intent of NAGPRA described under section A.1 by adding "Repatriation means the return of control over human remains and cultural items to the Indian tribe or Native Hawaiian organization of origin." In section A.2, the terms disposition and repatriation were defined with language from the statute. In section A.3, review committee members wanted to state clearly that even though NAGPRA does not specifically address the issue of funerary objects associated with culturally unidentifiable human remains, the statute does not prohibit their voluntary return. The order of sections A.4 and A.5 was reversed. In section A.5, although most members of the review committee were in support of the ideas expressed in section A.5, Mr. O'Shea did not agree with the concept, "The process be primarily in the hands of Native people." Review committee members agreed to add the following section to the end of section A.1, "Repatriation means the return of control over human remains and cultural items to the nation of origin," suggested by Mr. Hart. Ms. Naranjo suggested changing "nation of origin" to "Indian tribe or Native Hawaiian organization of origin."

Following discussion of whether to delete section A.5, Ms. Metcalf, Mr. Sullivan, and Ms. Naranjo expressed concern that section A.1 was not strong enough to stand alone and say that Native people have primary consideration in the process, as shown in legislative and judicial history. Mr. Sullivan suggested a third sentence for section A.1, "While the statute does not always specify disposition, it is implicit that disposition decisions recognize the rights and needs of Indian tribes and Native Hawaiian organizations." Ms. Naranjo expressed concern that Native Americans need to have primary consideration in the process and over the phrase "rights and needs." Ms. Metcalf agreed with Ms. Naranjo and questioned the use of the word "implicit." Mr. O'Shea suggested alternative wording, "While the statute does not always specify repatriation, disposition decisions should recognize the rights

and needs of Indian tribes and Native Hawaiian organizations." Mr. Minthorn suggested changing "should" to "shall," which Ms. Mattix explained would be a stronger term in statutory language. After further consideration, Ms. Naranjo expressed concern that the statement does not say that Native Americans have primary consideration in the process, and therefore she could not agree to this section. Ms. Metcalf, Mr. Minthorn and Mr. Sullivan agreed. The review committee members agreed to try to reach consensus on this issue and worked to find language acceptable to all members. After further discussion, Mr. Bradley read section A.5, "While the statute does not always specify repatriation, it is implicit that the process be guided by the rights and needs of Indian tribes and Native Hawaiian organizations." The review committee members unanimously agreed to this statement.

Section B.1, the order of the last sentence was reversed to give primary consideration to Native Americans, as suggested by Ms. Yellow Bird. Section B.2, the wording remained the same. Section B.3, this section remained the same except for section B.3.b, where the wording was changed to clarify that these determinations are made by Federal agencies and museums and might change, as suggested by Ms. Yellow Bird. Section B.4.a remained the same. Section B.4.b and B.4.c were reversed. Section B.4.b remained the same with minor editing. Section B.4.c was reworded pursuant to a concern raised by Mr. O'Shea regarding the context of the citations used from the statute and clarification by Mr. McKeown that the Act does not prohibit study but cannot be used as the authority to do additional study after inventories are complete. In order to protect information regarding the location of burial and sacred sites, section B.4.d was changed to allow for the exemption of information that falls under the Freedom of Information Act from the public record.

Section C.1 remained the same. Mr. Bradley suggested new wording for section C.2 in response to suggestions for more concise wording of appropriate repatriation solutions to deal with culturally unclaimed and unidentifiable human remains. Section C.3 was added that allows Federal agencies or museums to seek the recommendation of the review committee for disposition based on criteria other than those listed in section C.2.

Section D.1 allows for repatriations to proceed when all relevant parties have agreed in writing, the statutory requirements have been met, and the guidelines detailed in section C have been followed. The list of cases where the review committee recommended repatriation of culturally unidentifiable human remains was updated. Section D.2.a remained the same. In response to Ms. Yellow Bird's comments, Mr. Sullivan suggested new wording for section D.2.b.1, establishing that Native Americans determine regions for regional consultation, which has already been done in many areas. This also removes the possible burden of having all parties agree to regions before beginning the process. Section D.2.b.1 reads, "The review committee recommends a process in which Indian tribes and Native Hawaiian organizations define regions within which the most appropriate solutions may be determined." The last sentence in section D.2.b.1 was deleted. Section D.2.b.2 remained the same. The first sentence of section D.2.b.3 was changed to read, "Regional consultations may be open to other parties with an interest in the disposition with the consent of the appropriate Federal agencies, museums and Indian tribes." The third sentence of section D.2.b.3 was changed to D.2.b.4 and reads, "Dispositions agreed upon through regional consultation meetings will be made by the Federal agencies, museums and Indian tribes." The original section D.2.b.4 that allowed for the review committee to elect to facilitate regional consultation meetings was deleted in order to prevent future conflict of interest. Section D.2.b.5 remained the same but was renumbered to D.2.b.6. Section D.2.b.5 was added to clarify that parties could bring disputes arising in the consultation process set forth in section D.1 to the review committee, "If a disposition agreement cannot be reached through regional consultation meetings, that dispute may be brought to the review committee."

Ms. Mattix explained that the review committee recommendations will go to the Secretary of the DOI where a rule writing team will be assembled to put the recommendations into proper rule language. A draft Notice of Proposed Rule Making will be published in the Federal Register, which provides an opportunity for public comment. Based on the public comment, a determination will be made regarding the need for additional hearings or other public feedback. A final rule will be drafted based on responses from the public, which will be published for further review. At that point, the rule becomes final. The review committee members unanimously agreed to the final version of the principles of agreements regarding the disposition of culturally unidentifiable human remains (see Attachment A).

Implementation of the Statute in Alaska

Mr. Mark McCallum, Tongass National Forest, explained that he was an archeologist with Tongass National Forest, the largest national forest in the United States with over 17 million acres. He explained that Tongass National Forest completed their inventories, consulted with Indian tribes and are awaiting claims for repatriation. He reported that some Indian tribes appear to be deferring decisions until they can make plans with their communities, consult with their local elders, or construct facilities. Tongass National Forest has received a few claims for repatriation, and Mr. McCallum described the history and repatriation efforts regarding a bentwood cedar box to the Organized Village of Kake and the Klawock Cooperative Association. The box was collected in 1949 by Mr. William Vickers, a trapper, on Kuiu Island, 100 miles southwest of Juneau. The telescoping box contains a human head, other human bones and an assortment of funerary items, most of which have never been examined. About 23 years ago, an agent of Mr. Vickers attempted to sell the box. The Forest Service obtained a search warrant and retrieved the box from Mr. Vickers's home. After consultation with Sealaska Corporation, the Forest Service curated the box at the Alaska State Museum, where it remains to date. Inventories were provided to the Organized Village of Kake and the Klawock Cooperative Association, based on ethnographic information, and also to the Tlingit and Haida Central Council, the Kake Tribal Corporation, the Klawock Henya Corporation and the Sealaska Heritage Foundation. The Klawock Cooperative Association wrote a letter in November 1997 to the Organized Village of Kake acknowledging their cultural affiliation with the box while delegating authority for repatriation to the Organized Village of Kake. A Notice of Inventory Completion was published in the Federal Register in 1998 and, with no competing claims, the Forest Service officially transferred ownership of the box in June 1998 to the Organized Village of Kake, which has decided to continue storing the box at the museum until they wish to have it returned to the village. The box is believed to be one of the earliest known examples of northwest coast line form design and, based on the wishes of the Organized Village of Kake, the Forest Service is helping to document the box before it is reburied, probably at its original location since that land now belongs to Sealaska Corporation.

In response to Mr. Minthorn's question regarding funding, Mr. McCallum explained that NAGPRA is not a line item but is funded through the regular heritage program funds. Mr. Bradley and Mr. Hart thanked Mr. McCallum for his presentation and expressed the hope that the NAGPRA work at Tongass National Forest could act as a model for other national forests.

Ms. Susan Marvin, U.S. Forest Service, Alaska, explained the situation of a repatriation of human remains to a non-Federally recognized group, the Auk Kwaan, through the Central Council of the Tlingit and Haida Indian Tribes, a Federally recognized Native Alaska group. In 1987 cremated human remains were discovered in a test pit during a cultural survey and testing program undertaken by the Alaska Office of History and Archeology. The remains were left in the backfilled pit until 1991 when the Forest Service archeologist recovered the human remains for repatriation. The Forest Service did err by not notifying the Auk Kwaan or the Central Council of the Tlingit and Haida Indian Tribes of the recovery. A carbon sample collected from charcoal associated with the human remains revealed an approximate date of 210 years ago. A physical anthropologist hired by the Forest Service studied the human remains and identified that the human remains represented two cremated individuals. The Forest Service determined that the individuals probably were members of the Auk Kwaan people who lived at this winter village site for several hundred years. The site is now a recreation facility. Consultation with the Auk Kwaan resulted in a memorandum of understanding with the Auk Kwaan regarding protection of this Native site during improvements to the recreation area, which were completed in 1995. In April 1998, the Central Council of the Tlingit and Haida Indian tribes agreed to represent the Auk Kwaan. A January 1999 letter from the Forest Service detailing the history of the project resulted in a claim for the human remains by the Central Council of the Tlingit and Haida Indian tribes in June 1999. A Notice of Intent to Repatriate was published in the newspapers and, since no competing claims were received, the human remains were repatriated in September 1999. The Forest Service hopes to assist the Auk Kwaan in a memorial service in April 2000. Ms. Marvin hoped that the review committee would use this information in developing guidelines for the disposition of culturally unidentifiable human remains.

In response to Mr. Minthorn's question regarding funding, Ms. Marvin explained that both forests in Alaska, the Tongass National Forest and the Chugach National Forest, covering a combined total of 23 million acres, fund NAGPRA through their heritage program funds. Mr. Bradley commended the efforts of the Forest Service in Alaska and asked who determines whether funds are going to be utilized for NAGPRA implementation. Ms. Marvin explained that the forest supervisor for each national forest, called a line supervisor, is responsible for those decisions, and authority for policy matters comes from the Washington, D.C. office. In response to Mr. Bradley's

question of where to direct efforts to improve NAGPRA compliance within the Forest Service, Ms. Marvin suggested working with the Washington office. Ms. Marvin explained that the assistance provided by the NPS office in Washington, D.C. has been very important. Mr. O'Shea pointed out that this situation was actually an inadvertent discovery on Federal lands, which differs from the issue of culturally unidentifiable human remains found off of Federal land. Mr. Minthorn asked if each forest had a NAGPRA coordinator, and Ms. Marvin explained that the individual forest archeologists work in that capacity and there is a NAGPRA coordinator located in the southwestern regional office, Mr. Frank Wozniak.

Mr. Terry Fifield, Tongass National Forest, explained that he was the zone archeologist for the Prince of Wales Island zone covering two ranger districts, approximately 2.5 million acres. He explained a situation regarding the discovery of ancient human remains from the north end of Prince of Wales Island. In 1996, Tim Heaton with the University of South Dakota and Fred Grady with the Smithsonian Institution discovered human remains in a very wet area of a cave on Prince of Wales Island. The human remains were removed from the cave and Mr. Fifield was called into the site. Mr. Fifield took the human remains and two bone artifacts to his office in Craig, Alaska, where he called the tribal presidents of the Craig and Klawock tribes notifying them of the inadvertent discovery under the terms of NAGPRA. He worked with Ms. Cheryl Eldemar, Central Council of the Tlingit and Haida Tribes of Alaska, to consult with the local tribes. A consultation meeting was sponsored by the Klawock Cooperative Association five days after the discovery. The Denver Museum of Natural History offered to curate, analyze, and protect the materials at their cost and to enter into a temporary agreement with the Forest Service for housing of the materials. The Klawock Cooperative Association passed a resolution permitting the shipment, curation, physical anthropological analysis, radiocarbon dating, and DNA testing, with the provision that additional consultation would occur if the area turned out to be a burial site. Later that week, the Craig Community Association passed a similar resolution, with the addition that they wanted to review any media statements before they were released. The Organized Village of Kake decided to defer to Klawock Cooperative Association in the consultation process. A National Science Foundation grant funded the archeological work, research, two internships in conjunction with Craig and Klawock tribal governments, and trips to the museum for tribal leaders. In addition, Sealaska has funded two interns to the project.

Ms. Yarrow Vaara, Tlingit Nation, explained that she was selected as an intern for the project by the Craig Community Association for the first year and funded through Sealaska Corporation for the past two years. She completed a lot of research concerning this project and recently presented a paper at the Arctic Research Workshop in Boulder, Colorado. Through an agreement with the Indian tribes, six Native students and one Native teacher have worked on this project including Ms. Vaara. Ms. Vaara explained her initial misgivings about disturbing the human remains of this ancient man, due to their sacred nature. Ms. Vaara consulted with local elders, who for the most part supported the project after learning about the project and its goals, including education to corroborate the oral history that the Tlingit people have lived in southeast Alaska since time immemorial. The results of the scientific study showing that the individual's primary subsistence was marine resources was very important to Ms. Vaara because the Tlingit still utilize that way of life. Ms. Vaara explained that this project motivated her to continue her education and research. The cooperation of all parties in this project is a great example of what can be accomplished beyond consultation.

Ms. Naranjo, Mr. Bradley and Mr. Minthorn commended this project for the Native involvement and the level of cooperation exhibited. Mr. Minthorn asked if an ARPA permit was acquired for this project, where the human remains were currently being curated, what type of site security exists, and the final plan for the human remains. Mr. McKeown explained that since the agency is doing the work on its land, an ARPA permit is not required but the agency must follow ARPA rules. Mr. Fifield explained that the human remains were still under a temporary loan agreement with the Denver Museum of Natural History under the tribal resolutions and that the site was being protected through a stewardship agreement with Port Protection, a community approximately three miles away. Mr. Fifield explained that no formal repatriation request has been submitted, although promises were made that the human remains would be returned to the island if that is the groups' decision. Mr. Hart and Mr. Sullivan expressed appreciation for this model project.

Mr. Steve Henrikson, Alaska State Museum, stated that the Alaska State Museum has been fairly active in compliance with NAGPRA and other activities related to NAGPRA. Inventories and summaries were distributed and numerous consultations were held with various native groups around the state. The Alaska State Museum returned three sets of human remains to the Central Council of the Tlingit and Haida Indian Tribes, acting on behalf

of the Auk Kwaan, and discussions are ongoing with several other organizations around the state regarding other artifacts. With the permission of the affected clans, Mr. Henrikson showed slides of various individuals involved in the repatriation process and objects that have been repatriated. He explained how some items were found unexpectedly in collections during the consultation process and were later repatriated or are currently in process, such as an ancient headdress from the Teikweidí in Yakutat and a beaver canoe prow figure from Angoon that was especially significant as it was from the only surviving canoe after the bombardment of Angoon by the U.S. Navy in 1882. The beaver canoe prow figure was identified by Mr. Harold Jacobs during a consultation visit at the National Museum of the American Indian, and through cooperation of the museum, was returned to the village approximately six months after identification. Mr. Henrikson showed slides of repatriated objects, some in their ceremonial use, including a wolf hat from the T'aaku Yanyeidí Clan, a killer whale dagger, killer whale hat and frog hat from the Dakl'aweidí Clan of Angoon, and two Chilkat robes and a beaded shirt from the Kiks.ádi. He explained that many items remain curated in the Alaska State Museum and are available for ceremonial use. Mr. Henrikson described the museum's proactive role in trying to locate Native cultural items and remove them from private collections.

Ms. Metcalf asked if the amounts awarded under the NAGPRA grants program were sufficient for consultation purposes. Mr. Henrikson explained that due to high travel expenses, many consultations involve only one or two individuals. In any given community there are different lineages and social systems that ideally would each be represented in the consultation process, and in that sense, there is not sufficient funds for consultation.

Mr. Minthorn asked if the items discussed by Mr. Henrikson had been tested for contamination. Mr. Henrikson replied that he believed the beaver canoe prow figure had been tested but was unsure of the other items from different museums. He explained that museums in the Alaska region rarely had to use pesticides due to the climate. He added that when a claim is received, conservation records will be thoroughly reviewed and arsenic test kits used to try to determine possible contamination.

Ms. Rosa Miller, Auk Kwaan, and Ms. Cheryl Eldemar explained their frustrating consultation experience with the U.S. Forest Service. Ms. Miller explained that she was of the Raven moiety, Dog Salmon Clan, from the Dipper House, and detailed her family lineage. She then explained a process that began in 1992 to repatriate human remains excavated in 1990. She expressed concern over the two-year time period taken before tribal notification of the excavation. She explained that the consultation process consisted of reams of paper being given to her at consultation meetings, promises being made, and then consultation shifting to the former chief of her clan.

Ms. Eldemar explained that she was the former cultural resource specialist for the Central Council of Tlingit and Haida Indian Tribes. She stated much of the frustration stemmed from promises made at consultation meetings by people who were not in decision-making positions. Ms. Eldemar felt that promises were made by the Forest Service in order to fulfill their consultation requirements, but the promises would not be upheld. She felt that the switch to consult with the former chief of the clan was an attempt to speed the repatriation process. Ms. Miller described the repatriation process and explained that the human remains were reburied in September 1999. She stated the Auk Kwaan made some requests that were not granted, including construction of a bentwood burial box by a specific individual and having a memorial dinner after the reburial of the human remains, both traditional practices.

Ms. Eldemar added that although the Forest Service did provide financial assistance to a degree, it did not complete the required process. The request for a memorial dinner was denied due to its party nature, demonstrating a problem with cultural issues. Ms. Miller explained a successful repatriation through the Alaska State Museum and expressed her appreciation to Mr. Henrikson, who was instrumental in the process.

Mr. Gary Selinger, University of Alaska Museum in Fairbanks, explained that the museum has been the repository for Federal and state collections since 1926, including the NPS, the BLM, the U.S. Fish and Wildlife Service, the U.S. Forest Service, and the Department of Defense. The collections consist of approximately 4,500 different accessions representing about 1,000,000 objects and 900 sets of human remains. To date, the museum has repatriated 450 sets of human remains and approximately 3,500 funerary objects in 14 different claims, with 3 pending claims. He explained the museum received no assistance in response to letters sent to Federal agencies asking for either financial or staff assistance. The museum made the decision to fulfill compliance on behalf of the Federal agencies at state expense. Therefore the museum is in possession of the collections but not in control, which causes delays in the repatriation process. Federal agencies often choose to repeat the consultation process to verify the information, placing additional burden on the Native community. Mr. Selinger described a claim made by the Nome Eskimo community on January 3, 2000. The U.S. Coast Guard was found to be the Federal agency that is responsible. Despite his attempts to make progress on this claim, he has received no response to date from the Coast Guard. Mr. Selinger pointed out that delays in publication of Notices of Intent to Repatriate have serious effects in

Alaska where reburials are seriously limited by the weather, and a three-month delay in publication can result in a year delay in the repatriation process. He also reiterated a concern voiced by Ms. Eldemar regarding burial on Federal lands. He cited a BLM policy that prohibits reburial on BLM land unless reburial of a partial skeleton can reunite human remains. He expressed concern about human remains in Federal collections that are being held in foreign countries and frustration over the lack of a method to have these items returned to the United States. Mr. Selinger expressed appreciation for the role of Mr. McKeown and his office in guidance regarding NAGPRA issues and concern over the possible effects of reorganization. Mr. Selinger explained that initial fears regarding NAGPRA legislation have given way to the development of partnerships and collaboration with Native communities, benefiting the museum in numerous ways.

Mr. Bradley expressed appreciation for the efforts of Mr. Selinger and the museum and added that the issue of reburial on Federal lands has come up in other parts of the country. Mr. O'Shea asked why the museum took on the Federal agencies' responsibility of completing the inventory process and repatriations for Federal agency collections. Mr. Selinger explained that the museum chose to bring the Federal agency collections into compliance out of a sense of responsibility to the Native communities of Alaska. Mr. Minthorn asked for a copy of the BLM policy regarding reburial on BLM land, citing this, and the Coast Guard case, as another example of the reason for Federal agency compliance to be considered a priority.

Ms. Diane Palmer and Ms. Irene Shields, Cape Fox Corporation and the Saanya Kwaan Tribe, thanked the review committee members for the opportunity to make a presentation. Ms. Palmer explained that the Cape Fox Corporation is an Alaska Native corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971. On November 5, 1999, Cape Fox Corporation on behalf of the Saanya Kwaan Tribe, filed repatriation petitions under NAGPRA with the Field Museum, the Peabody and Burke Museums, Cornell University, the National Museum of the American Indian, and the National Museum of Natural History. The majority of the claims were for artifacts taken by the Harriman Expedition of 1899, including artifacts taken from Cape Fox in July 1899. Aside from the repatriation claims, a project is currently underway which will retrace the Harriman Expedition 100 years later and will result in a feature-length documentary film for PBS about the original expedition, the expedition of 2000, the changes that have occurred in Alaska over the past 100 years, and the return of Cape Fox artifacts on July 12, 2000. Ms. Shields added that the artifacts taken during the Harriman Expedition include nine totem poles, a tribal house, masks, box drums, canes, two Chilkat blankets, and burial posts from graves. She explained some of the extensive preparations currently taking place for the repatriation and hoped that the Federal Register notices would be published in time for the planned July repatriation. At this point, Ms. Barbara Isaac, Peabody Museum at Harvard, submitted a draft Notice of Intent to Repatriate to Mr. McKeown for publication. Ms. Palmer thanked the Peabody Museum for their assistance and asked that consideration be given to strict timing requirements when working on the publication of the notice and added that due to the high costs of repatriating large items such as the totem poles, Cape Fox Corporation would be seeking a repatriation grant from the NPS once the notice has been published.

Ms. Naranjo asked for Mr. Robbins' assurance for speedy publication of the Federal Register notices necessary for this repatriation. Mr. Robbins responded that he would do his best. Mr. Sullivan clarified that the materials in the NMAI go through a separate process. Ms. Shields explained that they met with representatives of the NMAI and they are trying to speed their process.

Ms. Allison Young, Aleutian/Pribolof Islands Association, explained that the association is a nonprofit Native association for the Aleut people of the Aleutian and Pribolof Islands region, with 13 tribal governments, 13 village corporations and 1 regional corporation. Handouts were provided to the review committee members detailing the traditional territories of the Aleut political groups as recognized in the 1760's by Russian historians and explorers, a map of the Aleutian and Pribolof Islands region with detail of distances, and a preliminary list of organizations with standing to claim for materials from the island groups in the Aleutian archipelago compiled in consultation with the Indian tribes, villages corporations and the regional corporation. Repatriation efforts in the region began in 1995 with the tribal government of St. Paul receiving a repatriation grant to begin consultation with museums in the lower 48 states. In January 1996 a meeting was held in Unalaska to discuss NAGPRA procedures and implementation. As a result of this meeting, the Qawalangin Tribe of Unalaska applied for and received a NAGPRA grant to organize a repatriation commission and to develop a database using the summaries and inventories received from institutions. In 1998 the Aleutian/Pribolof Islands Association organized the cultural heritage program, for which Ms. Young was hired as director, to revitalize repatriation efforts and the language. Of the 3,000 Aleuts in the

region, 200 speak the language fluently. A one-day workshop was held to provide a preliminary overview of NAGPRA. Ms. Young explained that the Qawalangin Tribe's NAGPRA grant was revitalized and efforts made to complete the scope of work outlined in the grant, resulting in two regional repatriation meetings and the organization of a regional repatriation commission.

The regional repatriation office is backed by resolutions from Indian tribes, village corporations and the Aleut Corporation, and its mission is to implement NAGPRA, organize the commission, open dialog with museums, and to create an extensive database to reference material. The first meeting, held in March 1999, was an educational and planning meeting and included Mr. McKeown from the Washington NAGPRA office and representatives from the Smithsonian repatriation office, and Ms. Metcalf, Mr. John Johnson and Ms. Cheryl Eldemar to discuss how other Alaska Native groups have organized repatriation. At a September 1999 meeting, the structure of the repatriation commission was developed with fair representation from all parts of the region, the draft repatriation manual was reviewed, future plans for the database were discussed, and mock consultations held. No formal repatriations have been submitted to date. Priorities include beginning negotiations with institutions for the return of ancestral human remains and funerary objects and the identification of sacred objects and objects of cultural patrimony working with traditional religious leaders. One of the greatest challenges is the distances and expense involved for travel in the region, limited technology in some areas of the region, and limited funding available for repatriation efforts. Ms. Young expressed appreciation for the role of Mr. McKeown and the Washington, D.C. office in providing assistance and concern over the effect of restructuring. In response to a question from Ms. Metcalf, Ms. Young explained that the repatriation commission is funded through September 2000 through the Qawalangin Tribe's grant. Two grant requests have been submitted, one for research and documentation, and one for training. Currently no other funds are available.

Mr. Fredrick Anderson, Native Village of Naknek, stated that he is a former tribal council member, an enrolled member in the Naknek Native Village council, has served as representative and spokesman for his village on the Alaska Intertribal Council (AITC) and as the Bristol Bay Region's elective representative on the AITC executive council, and has served as the Native Village of Naknek's repatriation chairman for the past six years. He explained work done for the last year under a NAGPRA grant concerning Paug-Vik, a site on the Naknek River, and the difficulty he has experienced in finding two qualified elders capable of traveling to museums to identify objects. He is currently using video recording to document the collections which will be shown to elders for identification of cultural objects and in the future for educational purposes. Mr. Anderson explained that Native people have a different and special relationship with the skeletal remains of their people, which should be treated with the greatest respect and given a proper Native spiritual ceremony. He thanked Mr. McKeown, Mr. Ball, and Ms. Mahoney of the Washington office for their assistance and guidance, and Mr. Selinger of the University of Alaska Museum at Fairbanks for his patience and knowledge.

Ms. Rosita Worl, Sealaska Corporation and Sealaska Heritage Foundation, explained that she serves on the board of directors for Sealaska Corporation and as president for Sealaska Heritage Foundation. Sealaska Corporation holds title to a portion of the aboriginal land base in southeast Alaska, with approximately 30,000 Native shareholders and descendants. Sealaska Corporation supports educational, social and cultural interests of Native Alaska people and provides a significant portion of the Sealaska Heritage Foundation's administrative budget. Sealaska Heritage Foundation's mission is to perpetuate and enhance the Tlingit, Haida and Tsimpshian cultures of southeast Alaska. She expressed appreciation for NAGPRA, those who are active in its implementation, and the members of the review committee for their continued work. Ms. Worl expressed concern about a repatriation request submitted on October 27, 1995 by the Central Council of Tlingit and Haida Indians of Alaska for the yeilsheishoox, or raven rattle, in the possession of the Taylor Museum for Southwestern Studies of the Colorado Springs Fine Arts Center as of November 18, 1993. At the time of the request, the Central Council of Tlingit and Haida Indians was informed that the Taylor Museum was no longer in possession of the raven rattle. The United States attorney in Denver has referred this issue to the NPS for possible civil penalty. Ms. Worl explained that no action has been taken since the NPS received the referral and expressed concern over possible statute of limitation issues. She hoped the review committee members would place this issue on their action list for follow up.

Ms. Worl explained that she testified on April 20, 1999, before the U.S. Senate Committee on Indian Affairs Oversight Hearings, offering a number of recommendations regarding NAGPRA, including placement of the NAGPRA program in another administering agency to eliminate the inherent conflict of interest that exists in the office of chief archeologist in the NPS. She supports the NCAI resolution recommending placing the NAGPRA

program in a neutral office and identified OMB as a possibility. Ms. Worl stated that the action taken by the Intermountain Region of the NPS regarding the review committee's recommendation on the Hopi Tribe and Chaco Culture National Historical Park issue confirms the conflict of interest. She expressed concern that the personnel changes noted earlier would cause further backlogs, delays and inefficiencies in NAGPRA implementation. Ms. Worl made a further recommendation that Congress amend NAGPRA to allow for the prompt reburial of culturally unidentifiable human remains, adding that most Native Americans believe in a duality of spirit in which the spirit resides both with the human remains and the other part travels to a land of the dead, which is why Native Americans insist that all Native American human remains be returned to the Indian tribes. She requested that all culturally unidentifiable Native American human remains be reburied in the same way that the United States has honored and buried all unidentifiable human remains of military personnel. Ms. Worl thanked the review committee for the opportunity to comment and for coming to Alaska.

Ms. Metcalf asked if Ms. Worl received any results or update on recommendations on amending NAGPRA. Ms. Worl explained that the only information she received was the explanation of the reorganization presented at the beginning of the meeting. Mr. Sullivan placed the issue of the raven rattle on the review committee's action list, calling for a briefing from the NPS with current status and plans regarding the issue. Ms. Worl invited the members of the review committee, NPS staff and all attending the meeting to a reception hosted by Sealaska Corporation and Huna Totem Foundation.

Mr. Ron Williams, Huna Heritage Foundation, explained that he represented Mr. Adam Greenwald, head of Snail House and would like to express concern regarding a repatriation petition submitted to the University of Pennsylvania Museum in September 1995, subsequent to a meeting with a University of Pennsylvania Museum representative in Juneau during which a video of 39 Snail House objects was shown. Subsequently, four or five addendums were submitted at the museum's request. During consultation six additional items were discovered, bringing the total to 45. Mr. Williams asked whether it would be permissible for the Snail House to review the museum's records and added that both the Snail House and the museum need technical assistance on this matter. He explained that Huna Heritage Foundation, jointly with Hoonah Indian Association, wrote a letter to the museum asking when they could visit this summer but have yet to receive a reply.

Mr. Kenneth Grant, Hoonah Indian Association, explained that the Hoonah Indian Association is a Federally recognized Indian tribe located on Chichagof Island, southwest of Juneau, with approximately 600 registered members. The Hoonah Indian Association currently has four clans, the Kaagwaantaan, the Chookaneidi, the Wooshkeetaan, and the T'akdeintaan. He described the repatriation of Wooshkeetaan human remains and associated funerary objects from Glacier Bay National Park boundaries approximately four years ago from Washington State University and the repatriation of Swanson Harbor Jim last year. He expressed appreciation for the sensitivity of the Denver Museum of Natural History in granting a loan of an eagle hat while paperwork is processed for the final repatriation, which should take place within the next year. Mr. Grant described consultation visits to the American Museum of Natural History and the Field Museum during which overwhelming numbers of objects belonging to the Hoonah people were found. He expressed concern over lack of complete information regarding the objects, with some only being identified by having an elder present to recognize the clan lineage and emblems. He added that the requirement of NAGPRA for a preponderance of evidence on behalf of the Indian tribes as claimants is difficult to fulfill because many elders are gone or have health problems that prevent travel. He expressed concern that these objects need to be returned within a short time period so the elders will have a chance to view them and bring them back into their culture. Mr. Grant thanked Mr. McKeown for his assistance and hoped he would continue to be part of the restructuring.

Mr. Bradley thanked Mr. Grant and Mr. Williams for their presentations and expressed hope that museums would continue to work with them in order to return these objects. Mr. Bradley emphasized the importance of eliminating the backlog due to its negative effect on communities. Mr. Grant added that the dispute between the Hoonah Indian Association and the Huna Totem Foundation has been resolved and the groups are currently working together.

Mr. Patrick Mills, Huna Tribe, and members of his family presented regalia from their house, the Snail House, and described the items, such as a loon hat made from a cannon, a red hat made by Mr. David Williams, and two blankets. He explained how his family came from Snail House but is not considered to be part of it, nor are they included in workshops or events because of their dual claim on the Snail House. He emphasized the importance of knowing family lineage and passing down family names in order to preserve your house. He described a Chilkat

blanket given upon the marriage of his uncle to the widow of the Snail House leader, which preserved the family's position in Snail House.

Mr. Thomas Mills, Huna Tribe, explained his family lineage and the importance of oral tradition, which was passed down in his family through his grandmother.

Ms. Beatrice Brown, Huna Tribe, stated that in the interests of time she would submit her comments in writing to the review committee.

Ms. Rosita Worl and other members of the Eagle moiety thanked and acknowledged the members of the Raven moiety for showing their family and clan treasures.

Mr. Bob Maguire, Denakkanaaga, thanked the Tlingit people for hosting the review committee meeting, the Hoonah people for explaining their clan history, and Ms. Metcalf for her work on NAGPRA. He expressed appreciation for the work of the review committee members. Mr. Maguire explained that he is employed by Denakkanaaga, operating under authorization from resolution from Doyon Limited, the regional corporation which is a Federally recognized Indian tribe. Doyon Limited is the largest private landholding corporation in the United States holding approximately 14 million acres, with 44 Federally recognized Native communities that speak nine different Athabaskan language groups. Mr. Maguire explained that Denakkanaaga is in the third year of their NAGPRA grant, which focuses on education, through which Denakkanaaga hosted a statewide NAGPRA conference this past fall featuring NAGPRA representatives from each area of the state and eight different interior communities. The NAGPRA conference resulted in the community of Eagle's submitting a repatriation request to the University of Alaska Museum at Fairbanks. The backlog in publication of Federal Register notices may result in a delay in the repatriation due to weather conditions. The repatriation is further complicated because the reburial location is located at the headquarters for the Yukon Charlie Rivers Preserve on Federal land. He described the repatriation of six individuals and associated funerary objects to the Village of Anvik from the University of Pennsylvania Museum, including a magnificent rainbow reaching from the community to the graveyard following the burial. Mr. Maguire echoed concern regarding the restructuring of the NAGPRA program and thanked the review committee for their hard work.

Mr. Richard Dalton, Sr., T'akdeintaan, Hoonah, gave a brief history of his grandfather, Swanson Harbor Jim, whose human remains were repatriated in April 1999 from the National Museum of Natural History. Mr. Dalton described his frustration with the U.S. Forest Service over reburying his grandfather in his Swanson Harbor homelands, which are now Federal lands. He explained that the Forest Service did not want a permanent memorial at the gravesite or publicity about the reburial. Mr. Dalton stated that legislation needs to be made to allow for reburial on Federal lands. He explained the importance of preserving history for children for many years. Mr. Dalton thanked the review committee members for hearing his presentation.

1999 Report to Congress

Mr. Sullivan explained that at the Silver Spring meeting the review committee developed two documents, the 1998 Report to Congress and the Recommendations of the Native American Graves Protection and Repatriation Review Committee, which were later used in discussions with members of Congress. At the Juneau meeting, the review committee members updated both documents, developing text for the 1999 Report to Congress and the Recommendations of the Native American Graves Protection and Repatriation Review Committee, dated April 4, 2000. The recommendations were updated with the intention that they could be circulated immediately to the Congressional oversight committees and the Secretary of the Interior, and then included in the full 1999 Report to Congress. Mr. Sullivan added that this was the last opportunity for the current seven members of the review committee to collectively sign a document. After discussion and minor editorial changes of the draft prepared by Mr. Sullivan, a final version of the recommendations was signed by the members (see Attachment B).

The review committee members agreed to use the 1998 report when formatting the 1999 Report to Congress. Due to time constraints, the review committee members agreed to focus their discussion on the major issues. Mr. Sullivan prepared a draft of the major issues to be considered. Following a brief discussion, review committee

members agreed to the text prepared by Mr. Sullivan and expressed appreciate for his efforts in drafting this language.

"Committee Activities in 1999: The committee heard evidence during its meetings last year of a growing concern from many organizations and individuals about the perceived conflict of interest inherent in the National Park Service's administration of the NAGPRA program. This concern stemmed from the reality that many individual parks within the NPS hold collections of human remains and cultural objects subject to repatriation under NAGPRA, while the administrative unit responsible for monitoring their compliance with the law is also housed in the NPS. In other words, the same agency is tasked with both implementation and enforcement. Native American tribal organizations pointed to the fact that the Designated Federal Officer then responsible for administering NAGPRA is chief of archeology and ethnography for the National Park Service, which suggested an inherent professional conflict of interest. After its May 1999 meeting in Silver Spring, the committee members asked for a meeting with the chief of staff to the Secretary of the Interior to report these concerns. Most members of the review committee expressed support for the idea of moving the NAGPRA program into a central unit of the Department of the Interior, directly under the Secretary's office, in order to establish an appropriate distance from conflicts of interest. Senior officials of the Department of the Interior explored administrative options over the next ten months. In March 2000, the committee learned that the NAGPRA program would remain within the NPS but that national implementation, national compliance, and grants programs would be delegated upward to the Assistant Director for Cultural Resources. Current staff would be reassigned in a variety of ways operating within two separate units: Park Service NAGPRA and the existing national NAGPRA responsibilities. The committee as a whole remains very concerned that this arrangement may not be adequate to prevent conflicts of interest or to assure sufficient staff and resources." (The previous sentence was emphasized with italics.)

Under Specific Observations, "Inadequate Staffing and Funding: In previous reports, the committee has noted that compliance with NAGPRA has created a significant management burden for all tribes, museums and Federal agencies, as well as for the central administrative unit within the National Park Service. Now that nearly ten years has elapsed since passage of the law, the number of inventory completions and notices of intent to repatriate continues to grow annually." Mr. Sullivan suggested inserting a chart with specific information at this point, to be provided following the meeting. "Because of inadequate staffing, the average time that elapsed between receipt of draft inventory completions and notices of intent to repatriate by the NPS NAGPRA office and actual publication in the Federal Register was X days." Mr. Sullivan suggested inserting a chart with specific information regarding the administrative backlogs in the years 1995 through 1999 and asked if Mr. Robbins could provide this information. Mr. Robbins responded that he would see if that number would be available without any qualifications. In response to a question by Mr. O'Shea, Mr. McKeown explained that the average time from delivery of a notice to the Federal Register and publication was three to five days. "For tribes, museums, and Federal agencies, these backlogs have resulted in frustrating delays in accomplishing the intent of the law." (The previous sentence was emphasized with italics.) "Tribes in northern sections of the country seeking to rebury repatriated human remains during the few summer months when the ground is not frozen have sometimes experienced especially poignant and lengthy delays into the following year. As noted in our 1998 report, these delays have the effect of undermining trust by Native peoples in the NAGPRA process."

"The committee was pleased to learn that the NPS has allocated an additional \$195,000 in agency funds during FY2000 to begin addressing the inadequacy of administrative resources, and that the President's budget request for FY2001 contains a recommended permanent increase of \$400,000 for NAGPRA administration. The committee urges favorable action by the Congress on this request. However, the committee further notes that Section 8 (c)(5) of the statute requires completion of an inventory of all culturally unidentifiable human remains. At current staffing levels, completion of this database will require a number of years. The delay is unacceptable because this database is an essential component for implementing recommendations for the disposition of culturally unidentifiable human remains, and the committee is preparing to forward those recommendations in the near future." Mr. O'Shea suggested making the database information available through the Internet, along with the newspaper notices of inadvertent discoveries and planned excavations.

"Federal Agency Compliance: In the early years of implementing NAGPRA, public attention was focused on issues related to compliance by museums and universities holding collections of Native American human remains and cultural items. As time has gone on, it is increasingly apparent to the review committee that compliance by Federal agencies now represents a greater problem that calls for vigilant oversight by the respective committees of the U.S.

Senate and House of Representatives. Reports received in 1999 from a variety of Federal agencies within the Department of the Interior, the Department of Defense, and the U.S. Forest Service provide a clear indication that many Federal land managers are still years or even decades away from completing the summaries and inventories required under the law. This is in contrast to the standard required of non-Federal museums, which had to meet a November 1995 deadline for inventory completions."

"Further, the committee has heard credible testimony from tribal leaders throughout the United States indicating that many regional units of Federal agencies are failing to notify or consult with Indian tribes in the manner stipulated by NAGPRA. Either they do not understand their responsibilities under the law, or they are choosing to ignore those responsibilities. As NAGPRA enters a second decade as the nation's statutory standard for repatriation and graves protection, it is distressing to note that Federal agency compliance continues to reflect inadequate policy priorities and allocation of agency resources. While good-faith efforts have indeed been made in some agencies, the committee repeats our observation from 1998 that Federal compliance still falls well short of statutory requirements and lags far behind equivalent progress by non-Federal museums."

Discussion of Federal Agency Compliance Reports

Mr. McKeown explained that the review committee members have a report in their binders compiled by the DOI Museum Property Program, which is not NAGPRA specific but does address NAGPRA issues. The review committee also received information from three Federal agencies concerning compliance, the Department of Energy, the Tennessee Valley Authority, and the Department of the Air Force. Mr. Sullivan expressed concern about the slow pace of many agencies for completion of inventories, and explained that when asked to give target dates for completing inventories of NAGPRA materials in non-Federal institutions, the BIA and BLM report no firm target dates, and the Bureau of Reclamation will revise its inventories by summer 2000 and provide a list of additional resources needed. Another concern is the complicated answers given by the BLM, the BIA and the Bureau of Reclamation when asked if they completed their inventories by the statutory deadline of November 16, 1995. Mr. Minthorn suggested that the Federal agencies come before the review committee to give an update on NAGPRA compliance. Mr. O'Shea suggested providing the agencies with a specific format for reporting information. Ms. Naranjo expressed concern that the numbers cited in the report were underestimated, and Mr. Bradley suggested addressing that question to the Federal agencies and considering a site for the next meeting that would be conducive to getting Federal agency representatives to attend.

Discussion of Pesticide Contamination of Repatriated Objects

Ms. Alyce Sadongei, Kiowa and Tohono O'odham, thanked the review committee for the opportunity to address the issue of pesticide contamination of museum objects. The Arizona State Museum, for which she is the assistant curator for Native American relations, received a grant from the NPS to do a workshop on pesticide contamination. She provided the review committee members with the workshop agenda, abstract, and goals. NAGPRA funds enabled a thorough study of Arizona State Museum records and information to determine pesticide use on collections that date back 107 years, although pesticides have not been used in the past 20 years, as well as the development of a prototype for a museum database on pesticide use. Arizona State Museum consulted with seven Indian tribes regarding what Indian tribes wished to see incorporated in the workshop, the San Carlos Apache, White Mountain Apache, Yavapai-Apache, Hopi, Navajo, and four southern Indian tribes of O'odham people, Tohono O'odham, Acoma O'odham, Ak-Chin and Gila River. The agenda developed from the tribal consultations included tribal people, museum conservators, medical toxicologists, chemists, industrial hygienist and public health researcher, and included an evening presentation and discussion by the NPS and NAGPRA office.

The workshop raised the following issues: Both Indian tribes and museums are unaware of the potential risks of pesticide contamination on museum collections; due to the wide variation in tribal practices after repatriation, health hazards exist to both individuals and the environment; there is an urgency to develop tests to screen for pesticide presence, to identify and develop protocols for analytical determination of quantities, and to qualify the potential health risks depending on the intended tribal practices and disposition of the repatriated items; there is a need to address and potentially include tribal practices for pest control in all discussions; museum cooperation during development of histories is important due to trade and loan practices, with the possible incorporation of a pesticide

database, described by Ms. Nancy Odegaard, conservator at Arizona State Museum. Further recommendations included holding this type of workshop in different parts of the country; the need for resources to disseminate general pesticide information; the need for museums to prepare histories of pesticide use; clarification of the purpose and techniques of swipe tests; consultation and direct participation of tribal members for all testing that involves sampling; the involvement of medical specialists in the process of health risk assessment. Cooperative teams developed to deal with the issue of pesticide should include tribal people, medical toxicologists, conservators, chemists and/or industrial hygienists or public health professionals. Careful consideration of the context of information is important and should take into account the type and amount of pesticide present and the possible effects of the pesticide depending on the type of body entry. NAGPRA requires notification of the use of pesticides, but most museums presently know little about pesticide use and its potential hazards. Funding is needed to enable historical research and the development of testing techniques. Ms. Sadongei expressed the hope that the review committee would see this topic as important and determine a path for further clarification.

Mr. Joe Joaquin, Tohono O'odham Nation, explained that he is the cultural resources person for the Tohono O'odham Nation and expressed concern that the issue of pesticide contamination was not fully considered before passage of NAGPRA. Many Native Americans were unaware of the potential dangers in repatriating contaminated items. He explained that Native people do have methods to deal with contamination, which are not for public knowledge or use. Mr. Joaquin stated that the workshop was good for hearing the ideas of the presenters and the information they had to share, and he emphasized that communication was the key to dealing with this issue.

Mr. O'Shea asked if information from the workshop was going to be distributed publicly. Ms. Sadongei explained that information was handed out to people attending the conference and consideration is being given to publishing the information for distribution, trying to cover the issues and technical information. Mr. Sullivan suggested posting the information on the NPS website in conjunction with other NAGPRA information and also through the Technical Information Service of the American Association of Museums. Mr. Minthorn stressed the importance of education and developing guidelines so that Indian tribes and museums can work to alleviate this problem. He hoped that the review committee and the NPS could work to create guidelines concerning this issue. Ms. Naranjo expressed concern about this issue as it affects both humans and the environment and appreciation for the fact that the Hopi Tribe has been especially concerned about pesticide use and has been one of the initiators of this concern. Mr. Bradley commended the work done on this issue and asked if the issue could be given priority within the NAGPRA grants program. Mr. Robbins explained that it is already an emphasis within the grants program, that the NPS and its Museum Management program have begun to address this problem, and a member of the NPS, Ms. Jessie Johnson, attended the workshop.

Approval of Minutes from Salt Lake City Meeting

The review committee members unanimously approved the minutes of the Salt Lake City, Utah meeting on November 18, 19 and 20, 1999.

Upcoming Meetings

After discussion, the review committee members tentatively set the next meeting for November 2000 in Nashville, Tennessee, and the following meeting in May-June 2001 in northern California, to be coordinated by invitation of and in cooperation with the Lake County Intertribal NAGPRA Consortium.

Election of Chair

Mr. Sullivan and Ms. Naranjo declined to participate in the selection of chair, discussed in terms of an interim position, as their terms will be completed in June 2000. Ms. Metcalf, Mr. Bradley, and Mr. O'Shea declined to serve as interim chair. Mr. Minthorn stated that he would serve as interim chair. Mr. Hart stated that he would serve as interim chair if asked but would defer to Mr. Minthorn. After discussion, Mr. Minthorn agreed to act as interim chair for the review committee.

Review Committee Administration

Solicitation of Nominations for Review Committee Members: Mr. Robbins explained that due to the conclusion of the terms of both Ms. Naranjo and Mr. Sullivan, nominations for new members would be solicited. Sources for the nomination for the position currently held by Ms. Naranjo are Indian tribes, Alaska Native villages and corporations and Native Hawaiian organizations, and nominees do not have to be traditional religious leaders. Sources for the nomination for the position currently held by Mr. Sullivan are national museum and scientific organizations. A Federal Register notice was published on February 10, 2000, outlining the specific information and the closing date for nominations was set for June 19, 2000. Nominations should be submitted to Mr. Robbins.

Review Committee Member Reimbursement: Mr. Sullivan reported that he had not received his reimbursement for the Salt Lake City meeting. Ms. Naranjo and Mr. Hart reported that they did not receive their travel expenses from the Salt Lake City meeting.

Commendations: Mr. Sullivan suggested that Mr. McManamon and Mr. McKeown both receive official recognition for initiating and guiding the national NAGPRA program through its first ten years; Mr. McManamon for his stewardship and direction of the overall program and Mr. McKeown for the extraordinary manner in which he has been a connecting point for all interested parties and particularly Indian tribes and Native Hawaiian organizations that have sought to have access to the process. The review committee members also wished to recognize the efforts of Ms. Hagel. The review committee members agreed to send a letter to the Secretary of the Interior with these requests.

Action List

Mr. Sullivan expressed appreciation for the action list developed at the Salt Lake City meeting. Review committee members were in favor of continuing the action list to track the progress of each item. At the end of the Juneau meeting, the following items remained on the list for further action:

- letter to the Pechanga and the U.S. Army Corps of Engineers regarding the dispute heard at the Portland meeting;
- letter to the San Francisco Art Museum regarding repatriation (from the Santa Fe meeting);
- contact the FBI regarding the sale of a skull in Ohio (from the Silver Spring meeting);
- monthly updates to the review committee regarding the backlog in publishing Federal Register notices, current status of six institutions under forbearance, current status of civil penalties, particularly the raven rattle, FY1999 and FY2000 NAGPRA appropriations and FY1999 actual expenditures, FY2000 NAGPRA workplan, current status of Spirit Cave decision, status of revision to excavation/discovery regulations, status of proposed rule regarding disposition of unclaimed cultural items, and incoming correspondence;
- letter regarding the Satanta shield;
- Federal agency compliance (document Federal agency policies regarding hiring of Native American religious leaders as experts, document Federal agency policies regarding reburial on Federal lands, and determine if Federal agencies can be required to prepare discovery plans);
- response to Hopi regarding notice by Mesa Verde and Aztec; summary of Salt Lake City meeting;
- resolution of outstanding reimbursement from Salt Lake City meeting;
- letter to Ms. Marsha Kearney, U.S. Forest Service, regarding disposition of the human remains of eight individuals;
- letter to Ms. Lynette Miller, Washington State Historical Society, regarding disposition of the remains of four individuals;
- 1999 Report to Congress;
- respond to NCAI resolution PSC-99-128 (after official receipt by office); commendations for Mr. McManamon and Mr. McKeown;
- Web publication of newspaper notices;
- plans for two upcoming meetings (Nashville and northern California);
- principles of agreement (publish in Federal Register and develop draft proposed rule);
- and highlight contamination issues (post information on web and consider developing guidelines).

Public Comment

Ms. Dale Ann Frye Sherman, Yurok, National Congress of the American Indian (NCAI), acknowledged that she was in someone else's land. She spoke on behalf of NCAI, the oldest and more representative American Indian and Alaska Native organization in the United States. The NCAI understands that NAGPRA requires the review committee to recommend specific actions for developing a process for the disposition of culturally unidentifiable Native American human remains, but the review committee needs to clarify that this does not legally restrict Federal agencies and museums from repatriating culturally unidentifiable human remains. The NCAI asks that the review committee strengthen the requirement in section B of the draft guidelines for disposition of culturally unidentifiable human remains to use good faith evaluation of all relevant available documentation in consultation with any appropriate Indian tribe while making cultural affiliation determinations. The NCAI expressed concern over the use of the term "educational, historical or scientific value" found in sections C.2 and C.3, stating that this usage reaches beyond the scope of NAGPRA and should be removed. The important issue is the speedy repatriation of human remains regardless of their educational, historical, or scientific value. Under models for disposition, the NCAI applauds the review committee's recommendation of regional solutions for disposition/repatriation but feels the term disposition should be clarified. The NCAI also feels that where human remains are clearly Native American, the process for their disposition should be determined from a Native perspective. Regional disposition solutions should be drafted by the Indian tribes with some consultation with Federal agencies and institutions. Ms. Frye Sherman then summarized NCAI Resolution PSC-99-128 calling for the transfer of NAGPRA responsibility to the Office of Management, Budget and Policy.

Mr. Minthorn asked if there has been a response to the resolution. In the absence of a response, review committee members felt that there should be a response from the appropriate party. Mr. Robbins explained that when the resolution has been officially received, it can be handled as incoming correspondence.

Ms. Martha Graham, Society for American Archeology (SAA), explained that she is chair of the repatriation committee for SAA, the largest professional organization for archeologists in the United States. The SAA supports the review committee's position that museums and Federal agencies should have an inventory process to determine cultural affiliation, which should include consultation with possibly affected Indian tribes and the weighting of a variety of lines of evidence. When cultural affiliation is determined the affiliated Indian tribes can repatriate the human remains. Ms. Graham urged Indian tribes to consider other dispositions at this point in the process. The SAA encourages the review committee to consider exploring the extent to which Indian tribes, museums and Federal agencies are dealing with culturally affiliated human remains and associated funerary objects, which will help the review committee effectively address disputes and develop recommendations for the disposition of culturally unidentifiable human remains. The SAA expressed appreciation for the progress made by the review committee on developing recommendations for the disposition of culturally unidentifiable human remains and the difficult role the review committee has in the process of NAGPRA implementation. The SAA thanked Ms. Naranjo and Mr. Sullivan for their important contributions, resourcefulness and integrity while serving on the review committee.

Mr. Norman Harry, Pyramid Lake Paiute Tribe, thanked the review committee for the opportunity to make a presentation and thanked his Alaska Native brothers and sisters for their generous hospitality and warm welcome. He explained that they have been following the Kennewick human remains case very carefully and were encouraged by the DOI acknowledgement that the human remains were Native American but were discouraged when the DOI allowed DNA testing of the human remains. Mr. Harry stated that the Pyramid Lake Paiute Tribe has an ancient relative, the Wizard Beach human remains, which also have been determined to be over 9,000 years old. He explained that the Pyramid Lake Paiute Tribe feels that the DOI may be allowing a very bad precedent to be established by allowing DNA testing. Their position is that information from genetics or DNA testing is not relevant to determinations of cultural affiliation. He presented a statement outlining this position to the review committee, which he hoped would be adopted into the draft principles of agreement regarding culturally unidentifiable human remains. Geographic boundaries of present-day reservations were only recently formally established. Traditional ancestors knew no boundaries and traveled very extensively, resulting in modern-day relations of the Pyramid Lake Paiute Tribe throughout the Great Basin. Mr. Harry expressed concern over the action by the Intermountain Region of the NPS regarding the review committee recommendations on the Chaco dispute and its possible precedent setting effects on Indian tribes currently working with government agencies. He expressed further concern at having simple questions by the review committee members go unanswered by the

assistant director and a solicitor. Mr. Harry emphasized the Pyramid Lake Paiute Tribe's aggressive measures at protecting their resources, including the repatriation of their ancestors and their commitment to exhaust all available measures in order to fulfill this goal. He requested that any final position concerning the draft principles on culturally unidentifiable human remains be published in the Federal Register so that the many Indian tribes not present at the meeting would have a chance to comment. The Pyramid Lake Paiute Tribe cannot and will not support granting standing to the scientific communities or museums for making decisions regarding their deceased relatives. Mr. Moyle asked where to send letters regarding their concerns. In closing, he thanked Ms. Naranjo and Mr. Sullivan for their commitment and dedication for their work in NAGPRA implementation.

Mr. Sullivan suggested sending any correspondence regarding NAGPRA concerns to the Secretary of the Interior. Mr. Bradley explained that the goal to have the principles of agreement finalized arose from a desire to complete this work before the end of Ms. Naranjo's and Mr. Sullivan's terms on the review committee and that the recommendation would then go in the Federal Register for comment. Mr. Harry thanked Mr. Bradley for his clarification.

Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Harvard University, stated that representatives of the Peabody Museum would like to start addressing the compliance for the return of human remains to Alaska groups and would like to speak with members of the Aleut Corporation, the North Slope Corporation or the Bering Strait Corporation. Ms. Isaac asked if all future Notices of Intent to Repatriate and Notices of Inventory Completion should be sent to Mr. Robbins, and Mr. Robbins confirmed that they should. Ms. Isaac gave a brief update of the efforts of the Peabody Museum to fulfill their forbearance requirements. She summarized a draft report on the Peabody Museum's compliance, which she also provided to the review committee members. The Peabody Museum divided compliance into geographical sections. By the end of the second quota period, 32 states will have been completed, accounting for approximately 7,189 human remains, slightly over quota. She explained that the final report would also detail the number of associated funerary objects, which is estimated between 3,000 and 4,000.

Mr. David Katsic (phonetic), Chilkat, Tlingit, explained the importance of having human remains and artifacts returned to their people. He agreed with Ms. Yellow Bird's comments regarding Native American tribal sovereignty. He described how in the Tlingit culture these items were sacred. He stated that culturally unidentifiable human remains should not be a problem in Alaska if artifacts were buried with the human remains because these artifacts have clan identification. He thanked the review committee for the opportunity to make a presentation.

Ms. Patricia Lambert, American Association of Physical Anthropologists (AAPA), expressed appreciation for the review committee's difficult task and conveyed support of the review committee on behalf of the AAPA regarding the issue of the dispute between the Hopi Tribe and Chaco Culture National Historical Park. In Section A of the draft principles of agreement regarding culturally unidentifiable human remains, the AAPA feels that the intent of NAGPRA is the repatriation of culturally affiliated human remains and dealing with the issue of unclaimed human remains. Points 4 and 5 of section A seem to be contradictory, calling for the process to be primarily in the hands of Native people and then calling for a balance between the needs of Native Americans and the public interest. The AAPA acknowledges the fact that a determination of culturally unidentifiable may change, possibly through biological, archeological, or other lines of information that are an important part of the process and should not be excluded. The AAPA reiterates the point that in terms of culturally unidentifiable human remains NAGPRA does not prohibit studies, even invasive studies. A determination that human remains are culturally unidentifiable does not mean that they have no scientific value; all human remains have a story. Another important role of culturally unidentifiable human remains is in teaching, if for no other reason than for students to learn to identify human remains for their protection in future excavations and inadvertent discoveries. The AAPA firmly supports the idea of regional solutions, particularly on a voluntary basis.

Mr. Minthorn acknowledged that science does have a role, but stressed that science needs to recognize that these objects are not just objects or artifacts, they are sacred. Ms. Lambert explained that she stresses respect for all human remains in her classrooms. She then described a situation where past study allowed the identification of a Native American individual among a burial of Mormon settlers and stressed the importance of studying human remains from Native Americans and people around the world for use in forensic capacities. Mr. Hart asked for a response from Ms. Lambert regarding the opinion of tribal officials that there are no culturally unidentifiable human

remains. Ms. Lambert explained that for some human remains there is no information available but for other groups evidence shows continuity in some areas for thousands of years. She agreed that this is a very difficult issue.

Mr. Alfred McKinley, Sr., Eagle, Shark, Wooshkeetaan, explained his lineage and stated that he is familiar with the information being shared today regarding the clan histories. He emphasized the importance of following custom and rules when dealing with cultural artifacts and human remains, especially during reburials or discussions, and the importance of returning items to the correct Indian tribe. He explained that culture can even limit which clans are discussed. Mr. McKinley thanked the review committee for allowing him to speak.

Mr. John Martin, T'akdeintaan, Sockeye House, thanked the review committee members and people participating in repatriation activities. He stated that the return of important Tlingit items has meant the return of the Tlingit identity and individual values. He explained that many years ago, the Tlingit people knew no boundaries and were not divided into the Raven and Eagle moieties. When disease destroyed many people, the contaminated artifacts were put in caves. These artifacts belonged to the Tlingit Tribe but no particular clan, making identification difficult today. Mr. Martin explained the migration of different clans from Glacier Bay. He stated that he represented the Tenaktak Tribe, which advocates that the repatriation of all artifacts and human remains to the Tlingit people be completed as one blanket resolution.

Ms. Fawn Morris, Yurok, explained the importance of human remains in her culture. She stressed that the human remains and regalia need to be buried with respect and dignity. She serves as commissioner for the Native American Heritage Commission for California and described how telecommunications companies have to stop work when human remains are found during digging. She explained that there are no culturally unidentifiable human remains, because where the human remains are found is where they are from. She added that no further study needs to be done, as living Indian culture still exists. Ms. Morris stated that handling sacred objects and human remains goes against her beliefs, and she hopes that the review committee members keep that in mind when considering this issue.

Mr. Alvin Moyle, Fallon Paiute-Shoshone Tribe, thanked the review committee members for allowing him to provide an update on their request for the return of the Spirit Cave human remains and three other individuals excavated from Spirit Cave in 1940. He explained that the Fallon Paiute-Shoshone Tribe is the only Indian tribe that seeks repatriation of the human remains and no Indian tribe contests their claim to repatriation. Since the Salt Lake City review committee meeting, the Fallon Paiute-Shoshone Tribe provided the BLM Nevada state director with material to substantiate cultural affiliation through eight reports by experts in the fields of anthropology, biology, burial practices, ethnography, folklore, linguistics, archeology, and DNA, which also were sent to the members of the review committee. Mr. Moyle reported that the Nevada State Museum, previously an ardent opponent of repatriation, took a more constructive position in January 2000. In response to the expert reports provided by the Fallon Paiute-Shoshone Tribe, the director of the Department of Museums, Library and Arts of the State of Nevada wrote that his staff respects the opinions of the scholars retained by the Fallon Paiute-Shoshone Tribe and recommended that their opinions be given serious consideration. The director added that the Department of Museums, Library and Arts feels that the human remains are Native American and that due to staff changes, the museum is no longer assuming a lead in scientific studies of the Spirit Cave human remains.

Mr. Moyle explained that in response to a letter from Mr. McManamon following the Salt Lake City meeting, the BLM state director agreed to consult with the Fallon Paiute-Shoshone Tribe. In a meeting on March 17, 2000, the state director informed the Fallon Paiute-Shoshone Tribe that the BLM believes the human remains are Native American, there appear to be no active requests to engage in scientific testing of the human remains, the BLM is no longer considering scientific testing, and the request for repatriation is currently being reviewed by the BLM, the NPS, the BIA and the DOI Solicitor's Office at the D.C. level. The Fallon Paiute-Shoshone Tribe is pleased with the progress made to prove cultural affiliation with the Spirit Cave human remains and hope that a decision to repatriate the human remains is made promptly so the human remains can be returned. Mr. Moyle described some complications arising from the repatriation request, including the financial burden placed on Indian tribes while museums and other agencies are being Federally assisted to establish cases against Native people. Mr. Moyle explained that several busts were made of the Spirit Cave human remains and other human remains. The BLM agreed to the Fallon Paiute-Shoshone Tribe's request not to display the busts. However, a second reproduction of the busts was displayed at the Clovis and Beyond Conference in Santa Fe, New Mexico in October 1999. Dr. Sharon Long, originally contracted by the Nevada State Museum to construct the busts, made a second set of the

busts without permission and copyrighted them. The Fallon Paiute-Shoshone Tribe and the museum are investigating this issue.

Mr. Moyle then requested that future discussions of the draft principles of agreement regarding culturally unidentifiable human remains be held in the lower 48 states in a central location to allow for more tribal comment and participation. He stated that after listening to the discussion of the Chaco dispute, relocation of the NAGPRA program from the NPS is inevitable for the purpose of impartiality. After listening to comments at the meeting, The Fallon Paiute-Shoshone Tribe feels that the scientific community's political relationship with the Federal government will influence adverse policies and override the intent of NAGPRA. Regarding the issue of compromise raised in earlier discussions, Mr. Moyle explained that according to Native American beliefs and traditional ways, there is no compromise for what would be the outcome of skeletal remains, artifacts or funerary objects. He emphasized that NAGPRA is human rights legislation, and language must be drafted that supports immediate repatriation of Native American ancestors without catering to the interests of the scientific community. Mr. Moyle stated that the Fallon Paiute-Shoshone Tribe would like to publicly thank and acknowledge the contributions of Ms. Naranjo and Mr. Sullivan and wish them well with their future endeavors.

In response to Mr. O'Shea's question regarding DNA analysis, Mr. Moyle explained that the information provided relevant to DNA was based on studies done in the Great Basin area, not specific DNA studies on the Spirit Cave human remains. Mr. O'Shea pointed out that during presentations at the meeting, most of the scientific organizations specifically supported the review committee's findings in the Hopi-Chaco dispute. Mr. Moyle retracted his statement regarding the scientific community's influence on NAGPRA. Mr. Minthorn expressed appreciation for Mr. Moyle's persistence and patience, and stated that he felt the Fallon Paiute-Shoshone Tribe's efforts have resulted in a cultural affiliation determination. Mr. Minthorn asked for the status of the request made by the Fallon Paiute-Shoshone Tribe that is being reviewed by the BLM, the NPS, the BIA and the Solicitor's Office. Ms. Mattix explained that the final decision will have to be made by the BLM, which is consulting with the other departments in order to make a fully informed decision regarding the case. The Solicitor's Office also will be discussing the case. Mr. Moyle explained that the Nevada state BLM director informed him that the DOI and the Solicitor's Office would be reviewing the materials. Mr. Moyle included the BIA because he felt they should be involved in this case in order to fulfill a trust responsibility to all Native American people. In response to questions by Ms. Cossette and Mr. Minthorn, Ms. Mattix explained that the Solicitor's Office meetings regarding this case will be closed due to the legal council advice nature and she was unsure when the review would be completed. Mr. Bradley expressed appreciation for Mr. Moyle's efforts and hoped that the review committee would be able to help track this issue to ensure a timely review. He asked Mr. Robbins if he would place this issue on the action list and keep the review committee members apprised of the situation. Mr. Robbins responded that he would do his best. Mr. Hart and Mr. Sullivan expressed concern over the inappropriate nature of the actions by Ms. Sharon Long in reproducing, displaying, and copyrighting an additional set of the busts. Mr. Moyle reiterated his position that he would not stop pursuing the repatriation of these human remains until they are returned to the Fallon Paiute-Shoshone Tribe.

Mr. Gary Selinger, University of Alaska Museum, Fairbanks, commented on pesticide contamination of Native American human remains and associated funerary objects in Alaska. He stated that in Alaska diseases potentially lay dormant in the very cold permafrost soils, especially in Alaska's northern climates. He explained that many diseases from the 1800's and early 1900's are present, including encephalitis, meningitis, diphtheria, influenza, tuberculosis, syphilis, gonorrhea, whooping cough, and many others. One of the most dangerous is tuberculosis, due to the high sensitivity of Native Alaskans to that disease. When doing repatriation work, Mr. Selinger recommends the use of dust masks and surgical gloves and the subsequent destruction of any containers used for transportation.

Ms. Pemina Yellow Bird, Three Affiliated Tribes, acknowledged and thanked the people who hosted the meeting, their spiritual leaders and their chiefs. She expressed appreciation for the efforts of Ms. Naranjo and Mr. Sullivan regarding NAGPRA implementation and showed her appreciation in a traditional way by offering a glad heart sound in their honor. She explained that her statements represent both the North Dakota Intertribal Reinterment Committee and the Indigenous Peoples Council on Biocolonialism. She expressed great concern over the growing backlog of Federal Register notices and the restructuring, since it did not remove the administration of NAGPRA from the NPS. She stated that the NPS manages lands that cradle the bodies of her ancestors, which they cannot do impartially as proven by the Chaco dispute. She expressed concern over continuity of staffing during the restructuring, including the future role of Mr. McKeown, lack of aggressive pursuit of civil penalties, and the forbearance issue. She explained that the groups she represents intend to take action on the letter from Ms. Karen

Wade, Intermountain Region, NPS, regarding the Chaco dispute because of the very serious precedent that this case sets. She also expressed concern over the effect of the restructuring on the NAGPRA grant money, which needs to be increased not decreased.

Ms. Yellow Bird thanked Mr. Bradley for his work on the draft principles of agreement, adding that there are a lot of positive aspects. She then made several suggestions for clarification of the principles based on draft five: Section A.3, clarification that funerary objects be repatriated with culturally unidentifiable human remains; section A.4, further acknowledgement of the repatriation needs of Native American people; section 5, avoid implication that standing is being granted to science and museum communities beyond what is granted by the statute; section B.1, change the wording to give primary consideration to the Native Americans; section B.2, insertion of the joint intertribal claims as a source of additional information; section B.3, she continues to protest the categorization of culturally unidentifiable human remains and suggested clarification that although the determination of culturally unidentifiable has been made, Native Americans might not agree and the determination can change; section B.4.b, clarification of the standard of proof required and who would make the determination if studies are for the benefit of the United States; section B.4.d, an exemption for information regarding specific burial sites in order to protect burials; section D, addition of the word "proposed" in the models for disposition since these are suggestions and not requirements; section D.2.b.1, removal of Federal agencies and museums from the process of defining a set of regions, this should be left to Native Americans; removal of section D.2.b.3 and D.2.b.4; throughout the document, the word stakeholders should be replaced with Federal agencies, museums and Indian tribes. Ms. Yellow Bird explained that she would submit a resolution to the review committee in opposition of DNA studies based upon their speculative nature. She emphasized that the greatest concern held by the groups she represents is the apparent direction taken by the review committee in granting standing to science and museum industries in the decision of the ultimate fate of their ancestors.

Following further discussion by the review committee members, Ms. Yellow Bird commented on draft six and made the following suggestions: Section A, 5.a and 5.b are necessary to define the intent of NAGPRA and help eliminate the need for constant education of museums and Federal agencies about the law; section D.2.b.1, Native Americans need to make determinations of regions for regional consultations without Federal agency and museum participation; section D.2.b.3, Native Americans have the right as sovereign nations to determine consultation parties; and section C.2.b, the concept of extinct Indian tribes is inapplicable to Native American people, she explained that many Native American accounts describe remnants of nations reduced by disease or warfare being absorbed by other Indian tribes, and suggested wording to make clear that these determinations are not made or agreed to by Native Americans.

Closing Comments

Ms. Metcalf, Mr. Bradley, Mr. Hart, Mr. Minthorn, and Mr. O'Shea expressed appreciation for the efforts of Ms. Naranjo and Mr. Sullivan in their capacity on the review committee, and presented them both with gifts of appreciation. Ms. Metcalf cited Ms. Naranjo's assurances to speak from a Native American heart, astuteness, and ability to fit different viewpoints together and build consensus, and Mr. Sullivan's ability to act as a voice of reason for those coming from different viewpoints and to take a reasonable stand when asked for guidance, suggestions, and support. Mr. McKeown explained his weekly contact with Ms. Naranjo and Mr. Sullivan while they each served as review committee chair and his desire to remain in contact. Mr. Sullivan thanked everyone and expressed his desire to keep in touch. Mr. Minthorn expressed his appreciation of the efforts of both Ms. Naranjo and Mr. Sullivan and explained that their open hearts and minds have added to the efforts of repatriation. The level of respect both feel for others is evidenced in their actions. He hoped the efforts of Ms. Naranjo and Mr. Sullivan would be felt by many for years to come.

Mr. Minthorn stated that he would miss both of them and hoped to be able to continue with the work that they have started. Ms. Naranjo explained that during her eight years on the review committee, she gained an appreciation for the wide variety of tribal viewpoints and a greater understanding of the views of people from the museum, university and Federal agencies. She hoped that all people involved in the NAGPRA process would continue to work toward the resolution of repatriation issues.

Mr. Minthorn and Mr. Dalton, Sr. gave the closing invocation. The meeting was adjourned at 5:30 p.m. on Tuesday, April 4, 2000.

Approved: Mr. Martin Sullivan, Chair
Native American Graves Protection
and Repatriation Committee

ATTACHMENT A <http://web.cast.uark.edu/other/nps/nagpra/DOCS/rcrec004.html>

ATTACHMENT B <http://web.cast.uark.edu/other/nps/nagpra/DOCS/rcrtcg98.html> - RECOMMENDATIONS OF THE