

Advisory Council on Historic Preservation

Advisory Council on Historic Preservation's Draft "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects"

AGENCY: Advisory Council on Historic Preservation

ACTION: Request for Public Comments on Advisory Council on Historic Preservation's Draft "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects"

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is revisiting its "Policy Statement Regarding Treatment of Human Remains and Grave Goods," adopted in 1988 (1988 Policy). A Task Force composed of ACHP members has drafted a new policy, and invites your views and observations on it. The Task Force will use your comments to finalize the draft policy before presenting it to the full ACHP membership for consideration and possible adoption.

DATES: Submit comments on or before June 28, 2006.

FOR FURTHER INFORMATION CONTACT: Address all comments concerning the draft policy to the Archeology Task Force, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606-8672. Comments may also be submitted by electronic mail to: archeology@achp.gov. Please note that all responses become part of the public record once they are submitted to the ACHP. Please refer any questions to Dr. Tom McCulloch at 202-606-8505.

SUPPLEMENTARY INFORMATION:

I. Background

In 1988, the Advisory Council on Historic Preservation (ACHP) adopted the "Policy Statement Regarding Treatment of Human Remains and Grave Goods" (1988 Policy) to serve as a guide for Federal agencies when making decisions about burial sites, human remains, and funerary objects encountered during review of Federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f, and its implementing regulations, 36 CFR Part 800 (Section 106). The ACHP adopted the policy to guide Federal agencies at a time when no other national

consensus or laws on the treatment of human remains and associated funerary objects existed. While the ACHP's 1988 Policy was a useful document for guiding Federal agency decision making, today it no longer reflects the ACHP's position on the treatment of burial sites, human remains, and funerary objects.

Since 1988, new, and changes to existing, Federal laws and regulations have been enacted that affect how human remains and funerary objects are considered and treated. These laws and regulations reflect in part an evolving recognition in law and practice for the special nature of burial sites, human remains, and funerary objects. Native Americans, in large part, framed the public discussion leading to these changes because of what they viewed as a long history of disrespectful treatment and unnecessary disturbance of the remains of their ancestors. This discussion has broadened as all Americans consider the recovery and treatment of human remains in contemporary, modern contexts, such as at the site of the World Trade Center after September 11, 2001.

The 1988 Policy also predates the 1992 amendments to the National Historic Preservation Act (NHPA) and subsequent revised ACHP regulations to implement these amendments. Two of the most significant 1992 amendments to the NHPA (1)

affirm that properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization (NHO) can be considered eligible for the National Register of Historic Places, and (2) require Federal agencies to consult, during the Section 106 process, with any Indian tribe or NHO that attaches religious and cultural significance to these properties.

In 1990, Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA). NAGPRA recognizes the interest and rights of Federally-recognized Indian tribes, Native Hawai'ian Organizations and lineal descendants in burial sites located on Federal and tribal land and, with its implementing regulations, mandates the process to be followed if it becomes necessary to excavate Native American or Native Hawai'ian human remains and funerary objects found on these lands. NAGPRA also establishes a mechanism for the repatriation of Native American and Native Hawai'ian cultural items to lineal descendants and culturally affiliated Indian tribes and NHOs.

In addition, Executive Order 13007 (May 24, 1996) requires Federal land managing agencies to accommodate religious practitioners in access to and ceremonial use of Native American sacred sites. It also calls on Federal

agencies to avoid adversely affecting the physical integrity of such sacred sites to the extent practicable permitted by law, and not clearly inconsistent with essential agency functions.

In 2004, the ACHP Chairman formed an Archeology Task Force to review its archeology policies and guidance. In 2005, the ACHP members voted unanimously to direct the Task Force to revisit the 1988 Policy. On September 1, 2005, the Task Force moved forward with a request for comment through publication of a set of Working Principles in the Federal Register (70 FR 52066-52068). The ACHP sent this same request for comments directly to all Indian tribes, Native Hawai'ian Organizations, SHPOs, THPOs, and professional archeological and preservation organizations. A total of 76 comments were received at the December 2, 2005, close of the comment period. These comments are posted on the ACHP's web site at www.achp.gov.

Based on the comments received, the Task Force concluded that the 1988 Policy should be revised. The Task Force then carefully considered the comments in preparing this draft "Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects" (the draft text is found at the end of this notice). This proposed draft of the ACHP's revised human remains policy is now subject to review,

including consultation with Federally-recognized Indian tribes. Please provide comments on it on or before June 28, 2006.

II. Explanatory Notes on the Draft Policy

Goals of the policy statement: This policy is designed to accomplish several tasks in the context of Section 106 review.

First, this policy offers leadership in resolving how to treat burial sites, human remains, and funerary objects in a respectful and sensitive manner while acknowledging the public interest in the past.

Second, this policy provides guidance to Federal agencies in situations where Federal or State law does not prescribe how burial sites, human remains, and funerary objects are to be handled. Many Federal undertakings, for example, take place on non-Federal and non-tribal land, including privately-owned land, where NAGPRA does not apply.

Third, this policy is not intended to recommend a specific outcome, but rather focuses thinking on what Section 106 participants need to consider in reaching decisions. The policy is not bound by geography, ethnicity, nationality, or religious belief. It applies to the treatment of all burial sites, human remains, and funerary objects encountered during the Section 106 process.

Finally, this policy is designed to guide Federal agencies as they proceed with undertakings that have the potential to encounter and/or disturb burial sites, human remains, and funerary objects.

Scope and Applicability: As the draft policy advocates, Federal agencies should, at the earliest point possible in project development, plan to avoid burial sites, human remains, and funerary objects altogether. When avoidance is not a reasonable course of action, the agency should minimize disturbance to such sites, remains, and objects. The Federal agency should consider removal of the human remains or funerary objects only when these or other alternatives that leave the remains in place cannot be reasonably implemented. It is important to understand that to be considered under Section 106, the burial site must be a historic property, meaning either listed on or eligible for inclusion on the National Register of Historic Places. This policy applies throughout the Section 106 process, including during the identification of those historic properties.

In making final decisions about disinterment and treatment, the Federal agency should consult with those who have an interest in the effects of the undertaking on the historic property. Federal agencies should use the

consultation process effectively to arrive at mutually satisfactory outcomes. Consultation, defined in the ACHP's regulations as "seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process," is the hallmark of the Section 106 process. To meet the regulations' "reasonable and good faith" requirement, consultation must begin in the earliest stages of an undertaking, after the Federal agency determines it has an undertaking and prior to decisions about project design, location, or scope.

When the Federal agency decides that human remains or funerary objects must be disturbed, they should be removed completely, with respect and dignity, and dealt with according to the plan developed by the Federal agency, in consultation with others. Under this policy, treatment options may range from immediate repatriation or reburial upon removal from the ground to detailed scientific study. This policy does not endorse any specific treatment, and does not take a position against scientific study of human remains when it is determined to be appropriate after consultation and consideration of other legal authorities that may prescribe a specific outcome.

Relationship of policy statement to NAGPRA and other

Federal, tribal, State, or local law: As policy, its principles and their implementation do not, in any way, change, modify, detract or add to applicable laws including, but not limited to, NAGPRA.

This policy applies to all Federal agencies whose undertakings are subject to review under Section 106 of the NHPA. While Section 106 requires agencies to seek agreement with consulting parties on measures to avoid, minimize, or mitigate adverse effects to historic properties, Section 106 does not prescribe or require a specific outcome. However, in many cases, Federal agencies will find that other Federal, tribal, State, or local laws exist concerning burial sites, human remains, and funerary objects that may be applicable and prescribe a specific outcome. The Federal agency must identify and, as applicable, follow these laws.

For undertakings on Federal and tribal land that encounter Native American or Native Hawai'ian human remains and funerary objects, NAGPRA applies. It is important to reiterate here that the NHPA and NAGPRA are separate and distinct laws, with separate and distinct implementing regulations and categories of parties that must be consulted, and that compliance with one law does not mean or equal compliance with the other.

Discussion of principles:

Principle 1: Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has fully considered avoidance and/or preservation in place.

Discussion: As a matter of practice, Federal agencies should avoid burial sites, human remains, and funerary objects as they carry out their undertakings. Avoidance means ensuring that the burial site is not physically disturbed.

If avoidance is not possible, Federal agencies, during consultation, should consider whether there are active steps they may take or implement to preserve the burial sites in place, perhaps through the intentional covering of the affected area, placement of markers, or granting of restrictive or other protective easements. In many cases, preservation in place may mean that the locations of burial sites, human remains, and funerary objects should, to the extent allowed by law not be publicly disclosed. Alternatively, consultation may reveal that preservation in place is not the preferred outcome or treatment. Natural deterioration may be the acceptable or preferred treatment.

Principle 2: Participants in the Section 106 process shall treat all burial sites, human remains and funerary objects with dignity and respect, which is determined through meaningful consultation.

Discussion: Dignity and respect are important concepts. Through meaningful consultation, descendants, culturally affiliated groups, descendant communities, and other parties consulting under Section 106 should discuss and define what constitutes dignity and respect.

Principle 3: Federal agencies are responsible for early and meaningful consultation throughout the Section 106 process.

Discussion: Consultation is at the heart of the Section 106 process. As noted above, consultation involves "seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process." The regulations of the ACHP require that the Federal agency identify consulting parties early in the Section 106 process. Consulting parties include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawai'ian organizations; representatives of local governments; applicants for Federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties, including individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their

concern with the undertaking's effects on historic properties.

The Federal agency must consult with Federally-recognized Indian tribes on a government-to-government basis. Government-to-government consultation recognizes the unique legal relationship of the Federal government with tribal governments as set forth in the Constitution of the United States, treaties, statutes, court decisions, and executive orders and memoranda.

Federal agencies should review the ACHP publication "Consulting with Indian Tribes in the Section 106 Process" for guidance. The National Association of Tribal Historic Preservation Officers has also published a document titled "Tribal Consultation: Best Practices in Historic Preservation," found at www.nathpo.org, designed to assist Federal agencies when preparing for government-to-government consultation with Federally-recognized tribes.

The Federal agency should consider that, in cases where human remains and/or funerary objects must be disturbed, final disposition may involve the identification of additional consulting parties. These potential consulting parties should be identified and included in consultation as early as possible.

The NHPA, the ACHP's regulations, and Presidential Executive Orders set out basic standards and criteria for many of the steps in the consultation process, including:

- How to identify consulting parties (36 CFR § 800.3);
- Appropriate documentation needed to support consultation and determine an outcome (what to talk about) (36 CFR § 800.11);
- The affirmative obligation to seek consulting parties (36 CFR § 800.2(a)(4));
- Federal agency responsibilities for making final decisions (36 CFR § 800.2(a));
- That properties of traditional religious and cultural importance to an Indian tribe or NHO may be determined to be eligible for inclusion on the National Register (16 U.S.C. 470a(d)(6)(A));
- The Federal agency has a responsibility to consult with any Indian tribe or NHO that attaches religious and cultural significance to such historic properties (16 U.S.C. 470a(d)(6)(B)); and
- Recognizing the sovereign status of Indian tribes. Executive Order 13175 (November 6, 2000) "Consultation and Coordination with Indian Tribal Governments" requires Federal agencies to engage tribes in a government-to-government context.

Principle 4: The policy recognizes that Native Americans are descendants of aboriginal occupants of this country. Federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains, and associated funerary objects, and be cognizant of their expertise in, and religious and cultural connection to, them. Federally recognized tribes are sovereign nations and Federal agencies shall conduct consultation with Indian tribes on a government-to-government basis, as required by law.

Discussion: This principle reiterates requirements found in existing Federal law, regulation and Executive Orders, and is consistent with positions that the ACHP has taken over the years to facilitate enfranchisement and promote broad participation in the Section 106 process.

Principle 5: When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully and in a manner developed in consultation.

Discussion: "Careful" disinterment means that when human remains and grave goods must be disinterred, those doing the work should have, or be supervised by people having, appropriate expertise in disinterment techniques of human

remains to ensure that in excavating a burial the material is kept as intact as possible and pieces are not left behind.

Depending on agreements reached through the Section 106 consultation process, disinterment may or may not include field recordation, such as field sketches, and the recording of an individuals' age at death, sex, stature, and evidence of disease or trauma. In some instances, such recordation may be so abhorrent to the descendants of the dead that it may be inappropriate to carry it out. Such alterations to standard procedure should be negotiated on a case-by-case basis in the consultation process.

The word "respectfully" is self-explanatory: when working with human remains, the Federal agency official should maintain an appropriate deference for the dead and their descendants and descendant communities. The official should also maintain respect for the customs and beliefs of those who may be descended from the deceased, and try to avoid unnecessary conflict with them.

Questions to be addressed in the consultation process may include but not be limited to:

- What kinds of ceremonies (if any) should be performed?;
- Who should remove/handle the remains?;
- What should the remains be placed in?

- What kinds of field analyses, if any, should be performed?;
- Should the remains be photographed in situ?;
- Should the remains be cleaned?; and
- What kind of arrangements should be made for disposition of the remains and funerary objects?

Principle 6: The Federal agency official is responsible for making decisions regarding avoidance or treatment of burial sites, human remains and funerary objects based on consultation and appropriate documentation. In reaching a decision, the Federal agency official must comply with applicable Federal, tribal, State, or local law.

Discussion: Encountering burial sites, human remains or funerary objects during the initial efforts to identify historic properties is not unheard of. The ACHP's regulations (at 36 CFR § 800.1(c)) state that the Federal agency official may conduct or authorize "nondestructive planning activities before completing compliance with section 106, provided such actions do not restrict the subsequent consideration of alternatives to avoid, minimize, or mitigate the undertaking's adverse effects on historic properties."

For purposes of Section 106, identification efforts should result in an assessment that can be independently

evaluated and used to make informed judgments about whether there are properties within the Area of Potential Effect that are listed in or eligible for listing in the National Register of Historic Places. This would typically include basic information on the history and historical importance of the property, its horizontal and vertical boundaries, and its basic nature, condition, and what qualifies it for the National Register. Hopefully, only a very small sample of the site will require investigation to make such determinations. While it is impossible to define a point applicable in all instances at which testing ends and archeological data recovery begins, a rule of thumb is that adequate testing has been done when a decision about National Register eligibility can be made.

Although early and meaningful consultation is critical to the success of the Section 106 process, at no time may agreements reached through Section 106 consultation contravene applicable Federal, tribal, State, or local law. For undertakings on Federal lands that may encounter burial sites, human remains, and funerary objects regardless of ethnic affiliation but at least 100 years old, the agency is subject to the provisions of the Archeological Resources Protection Act (ARPA). ARPA permits are required for any archeological investigations conducted on Federal land.

Further, NAGPRA requires the issuance of an ARPA permit prior to any disturbance of Native American or Native Hawai'ian burials protected by NAGPRA.

When undertakings encounter burial sites, human remains, or funerary objects on State and private lands, State burial laws may apply. Burial laws vary from State to State and the Federal agency must identify and follow these laws when they apply. Section 106 agreement documents should take into account the requirements of any of these applicable laws.

Principle 7: Federal agencies shall, after meaningful consultation, develop plans for the treatment of human remains and funerary objects that may be discovered.

Discussion: The ACHP's Post-review discovery provision (36 CFR § 800.13) requires the Federal agency to carry out several actions: "make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties;" notify consulting parties within 48 hours (including tribes and NHOs that might attach religious and cultural significance to the affected property) of the agency's proposed course of action; take into account comments received within a new 48 hour period, and then "carry out appropriate actions." The ACHP's regulations provide the

option of reaching an agreement on how to handle these in the future prior to any discovery.

NAGPRA prescribes a specific course of action when Native American and Native Hawai'ian human remains and funerary objects are discovered on Federal lands in the absence of a plan: cessation of the activity, protection of the material, notification of various parties, consultation on a course of action and its implementation, and then proceed with the activity. Adherence to Principle 7 causes new discoveries to be "intentional excavations" under NAGPRA because a plan has already been developed, and can be immediately acted upon without the mandated 30 day cessation of work for "inadvertent discoveries."

Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, Federal agencies should proceed following a hierarchy that acknowledges the rights of lineal descendants, Indian tribes, Native Hawai'ian Organizations and other descendant communities.

Discussion: Under the ACHP's regulations, "descendants" are not consulting parties by right. However, Federal agencies should recognize a biological or cultural relationship and invite that individual or organization to be a consulting party under the ACHP's' regulations at 36 CFR §

800.3(f)(3)). When Federal or state law does not direct disposition of human remains or funerary objects, or when there is disagreement among claimants, the process set out in NAGPRA may be instructive. In NAGPRA, the "ownership or control" of human remains and associated funerary objects lie with the following in descending order:

- Specific lineal descendants; then
- Tribe on whose Tribal lands the items were discovered; then
- Tribe with the closest cultural affiliation; and then
- Tribe aboriginally occupying the land, or Tribe with the closest "cultural relationship" to the material.

Definitions Used for the Principles:

- **Burial Site:** Any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited (25 U.S.C. 3001.2(1)).
- **Consultation:** The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process (36 CFR § 800.16(f)).

- **Consulting parties:** Persons or groups the Federal agency consults with during the Section 106 process. They may include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; representatives of local governments; applicants for Federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties (based on 36 CFR § 800.2(c)). Additional consulting parties may include individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties (36 CFR § 800.2(c)(6)).

- **Disturbance:** Disturbance of burial sites will constitute an adverse effect under Section 106. An adverse effect occurs when "an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, setting, materials, workmanship, feeling, or association" (36 CFR § 800.5(a)(1)).

- **Federal land:** Lands under a Federal agency's control.

Mere Federal funding or permitting of a project does not turn an otherwise non-Federal land into Federal land (see *Abenaki Nation of Mississquoi v. Hughes*, 805 F. Supp. 234 (D. Vt. 1992), *aff'd*, 990 F. 2d 729 (2d Cir. 1993) (where the court found that a Clean Water Act permit issued by the U.S. Army Corps of Engineers did not place the relevant land under Federal "control" for NAGPRA purposes).

- **Funerary objects:** "items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains" (25 U.S.C. 3001(3)(B)).

- **Historic property:** "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. It includes artifacts, records, and remains that are related to and located within such properties, and it includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register of Historic Places criteria" (36 CFR § 800.16(1)).

- **Human remains:** The physical remains of a human body. The term does not include remains or portions of remains that

may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets (see 43 CFR § 10.2(d)(1)).

- **Indian Tribe:** "An Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians" (36 CFR § 800.16(m)).

- **NAGPRA:** The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.)

- **Native Hawai'ian:** Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i (36 CFR § 800.16(s)(2)).

- **Native Hawaiian Organization:** Any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians (36 CFR § 800.16(s)).

- **Policy statement:** A formal statement, endorsed by the full ACHP membership, representing the membership's collective thinking about what to consider in reaching decisions about select issues, in this case, human remains and funerary objects encountered in undertakings on Federal, tribal, state, or private lands. Such statements do not have the binding force of law.

- **Preservation in place:** Taking active steps to ensure the preservation of a property.

- **Treatment:** Under Section 106, "treatments" are measures developed and implemented through Section 106 agreement documents to avoid, minimize, or mitigate adverse effects to historic properties.

III. Text of the Draft Policy

The following is the text of the draft policy:

POLICY STATEMENT REGARDING TREATMENT OF BURIAL SITES, HUMAN REMAINS AND FUNERARY OBJECTS

Preamble: When burial sites, human remains, or funerary objects, will be or are likely to be encountered in a project subject to review under Section 106 of the National Historic Preservation Act (Section 106), parties consulting under Section 106 should adhere to the following principles. The treatment and disposition of burial sites, human remains, and funerary objects are a human rights concern to

many individuals, tribes, and descendant communities. Accordingly, while frequently the remains encountered in Section 106 review are of significance to Indian tribes and Native Hawai'ian organizations, this policy applies to the treatment of all burial sites, human remains, and funerary objects in the context of compliance with Section 106. This policy is mindful of the values reflected in the guarantee of a burial for every person as expressed in the laws of every State. This policy does not modify, add or detract from the requirements of applicable Federal, tribal, State or local law, such as the Native American Graves Protection and Repatriation Act (NAGPRA).

Principle 1: Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the Federal agency has fully considered avoidance and/or preservation in place.

Principle 2: Participants in the Section 106 process shall treat all burial sites, human remains and funerary objects with dignity and respect, which is determined through meaningful consultation.

Principle 3: Federal agencies are responsible for early and meaningful consultation throughout the Section 106 process.

Principle 4: The policy recognizes that Native

Americans are descendants of aboriginal occupants of this country. Federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains, and associated funerary objects, and be cognizant of their expertise in, and religious and cultural connection to, them. Federally recognized tribes are sovereign nations and Federal agencies shall conduct consultation with Indian tribes on a government-to-government basis, as required by law.

Principle 5: When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully and in a manner developed in consultation.

Principle 6: The Federal agency official is responsible for making decisions regarding avoidance or treatment of burial sites, human remains and funerary objects based on consultation and appropriate documentation. In reaching a decision, the Federal agency official must comply with applicable Federal, tribal, State, or local law.


Principle 7: Federal agencies shall, after meaningful consultation, develop plans for the treatment of burial sites, human remains and funerary objects that may be discovered.

Principle 8: In cases where the disposition of human

remains and funerary objects is not legally prescribed, Federal agencies should proceed following a hierarchy that acknowledges the rights of lineal descendants, Indian tribes, Native Hawai'ian Organizations and other descendant communities. (End of text of the draft policy)

Authority: 16 U.S.C. 470j

Dated: March 8, 2006

A handwritten signature in cursive script, reading "John M. Fowler". The signature is written in black ink and is positioned above a horizontal line.

John M. Fowler

Executive Director