



National NAGPRA FY2005 Final Report

for the period October 1, 2004-September 30, 2005

Table of Contents

National NAGPRA Overview	1
Collections	6
Summaries & Notices of Intent to Repatriate	6
Inventories & Notices of Inventory Completion	6
Culturally Unidentifiable Human Remains Database	7
Grants	7
Civil Penalties	9
Review Committee	9
Excavations & Discoveries	12
Notices of Intended Disposition	12
NAGPRA Regulations – 43 CFR 10.10	13
Technical Assistance	15
Training	15
Website	15
Illegal Trafficking	18
FY2005 Budget	18
National NAGPRA Organizational Chart	19

National NAGPRA Overview

This report covers activities of the National NAGPRA Program for fiscal year 2005 (FY 2005-October 1, 2004 – September 30, 2005). All information and statistics reported are current as of close of business, September 30, 2005. Regular reports on National NAGPRA's work are available on the program's Website <http://www.cr.nps.gov/nagpra/DOCUMENTS/INDEX.htm>.

The Native American Graves Protection and Repatriation Act (NAGPRA) was enacted on November 16, 1990 to address the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony. The Act assigned implementation responsibilities to the Secretary of the Interior, including:

- Administering the obligations of museums and Federal agencies with regard to collections of cultural items, as follows:
 - Extending inventory deadlines for museums that demonstrate a good faith effort to comply with the law,
 - Publishing notices for museums and Federal agencies in the Federal Register,
 - Creating and maintaining a database of Culturally Unidentifiable Human Remains,
 - Making grants to assist museums, Indian tribes, and Native Hawaiian organizations in fulfilling museum responsibilities and the opportunities for tribes under the Act,
 - Assessing civil penalties on museum that fail to comply with provisions of the Act, and
 - Establishing and providing staff support to the Native American Graves Protection and Repatriation Review Committee;
- Providing oversight and technical assistance in those instances where there are excavations and discoveries of cultural items on Federal and Indian lands;
- Promulgating implementing regulations;
- Providing technical assistance, through training programs, website information, and supporting law enforcement investigation allegations of illegal trafficking in Native American human remains and cultural items.

The National Park Service was delegated some of these responsibilities shortly after NAGPRA became law.

The National Park Service also has compliance obligations for parks.

A number of structural and operational changes have taken place during FY2005 in the administration of the NAGPRA Programs in the Department of the Interior to more fully meet the mandates of the Act. The changes thus far are as follows:

- In September, 2004 the National and Park NAGPRA Programs were separated. The Park NAGPRA Program coordinates the compliance obligations of the parks and is located in the Intermountain Region of the National Park Service. The program manager reports ultimately to the Director, National Park Service. The National NAGPRA Program remains in Washington, DC under the direction of a full-time manager, who reports ultimately to the Assistant Secretary for Fish and Wildlife and Parks. The separation of the working files of the two programs was completed in November 2004. The budgets of the two programs are distinct. Operationally, the National NAGPRA Program provides the same services to the NPS Park NAGPRA Program as services are provided to the NAGPRA offices of museums and all other Federal agencies.
- Secretarial Order 3261, signed on May 23, 2005, further clarified the responsibilities of the National NAGPRA Program. Civil penalty enforcement pursuant to NAGPRA was assigned to the National NAGPRA Program as staff support to the Assistant Secretary for Fish and Wildlife and Parks. A consultative relationship was established regarding NAGPRA implementation

between the Assistant Secretary for Fish and Wildlife and Parks and the Assistant Secretary for Indian Affairs. Program duties include preparing regulations for issuance by the Assistant Secretary for Fish and Wildlife and Parks; reviewing and recommending disposition of requests for extensions of the inventory deadline by the Assistant Secretary for Fish and Wildlife and Parks; publishing notices in the Federal Register; serving as the Designated Federal Officer for the NAGPRA Review Committee; in consultation with the Office of the Solicitor, providing technical assistance to the Department of Justice in implementation of the trafficking provisions of NAGPRA; developing and issuing guidelines, technical information, training and other programs; and administering grants to assist Indian tribes, Native Hawaiian organizations, and museums in meeting their NAGPRA obligations.

On July 28, 2005, the Senate Indian Affairs Committee held an oversight hearing on implementation of the NAGPRA. Deputy Assistant Secretary Paul Hoffman testified on behalf of the Department of the Interior. Copies of the testimony are available at: http://indian.senate.gov/2005hrags/072805hrq/072805wit_list.htm.

This report and subsequent reports will follow the organization of the National NAGPRA program and its responsibilities pertaining to collections, excavations/discoveries, regulations, and technical assistance given to tribes and the museums and Federal agencies that have obligations for NAGPRA compliance.

Collections

The collections sections of NAGPRA describe the inventories, summaries, grants, civil penalties and the Review Committee that have functions in the administration of the law. The collections provisions of NAGPRA pertain to the responsibilities of Federal agencies and museums to inventory collections of Native American human remains and associated funerary objects in consultation with potentially affiliated tribes and to submit an itemized list to

the National NAGPRA Program. The decisions of agencies made in inventories are reflected in Notices of Inventory Completion and in the list of Culturally Unidentifiable Human Remains which are available on a public database. Summaries generally describe collections of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony which inform consultation of museums and Federal agencies with tribes on repatriation. Decisions to effectuate repatriation of unassociated funerary objects, sacred objects and objects of cultural patrimony are reflected in the published Notices of Intent to Repatriate.

Grants are available to museums and tribes for consultation and identification of items culturally affiliated to tribes and to cover costs of repatriation. Civil penalties may be imposed upon museums found in non-compliance with the law. The entire NAGPRA process pertaining to collections is within the jurisdiction of the Native American Graves Protection and Repatriation Review Committee that advises the Secretary on implementation and makes recommendations toward the resolution of disputes.

The following overview of summaries, inventories and culturally unidentifiable human remains reflect an update from numbers reported in prior reports and based upon a review of the National NAGPRA Program records as of September 30, 2005.

Summaries have been received from 1515 institutions (770 museums and 286 Federal agency units). Additionally, statements of “no summary required” have been received from 104 museums and 315 Federal agency units. There have been 317 Notices of Intent to Repatriate published, an increase of 23 notices during FY 2005. These 317 notices account for 87,105 funerary objects, 3,335 sacred objects, 217 objects of cultural patrimony, and 662 sacred objects that are also cultural patrimony. The 23 new notices represent 1,986 unassociated funerary objects, 2,183 sacred objects, 3 objects of cultural patrimony, and 5 sacred objects that are also objects of cultural patrimony.

Inventories have been received from 1,156 institutions (712 museums and 444 Federal agency units). Statements of “no inventory required” have been received from an additional 133 museums and 153 Federal agency units. There have been 866 Notices of Inventory Completion published accounting for 31,571 human remains and 633,525 associated funerary objects. There were 85 notices published during FY 2005, accounting for 2,321 human remains and 54,914 associated funerary objects.

As part of providing administrative support for the Review Committee, National NAGPRA has compiled the Review Committee’s inventory of culturally unidentifiable human remains, as required by 25 U.S.C. 3006 (c)(5). National NAGPRA has entered 660 inventories containing culturally unidentifiable Native American human remains in 601 institutions accounting for 118,259 individuals for which cultural affiliation has not yet been determined and 830,130 funerary objects associated with those individuals. The public access database is now 100% complete.

Congress appropriated \$ 2.4 million for grants in FY 2005. The grant application deadline for consultation/documentation grants was March 1, 2005. A total of 48 grants applications were received; with 33 from Indian tribes and Native Hawaiian organizations and 15 from museums. The total amount of the requests was \$2.3 million from tribes and \$1 million from museums. Grant applications were reviewed by an outside panel that recommended 14 tribal projects and six museum projects for funding. In addition there have been 9 requests, in the amount of \$ 100,844 for repatriation grants, which are awarded on a rolling basis to the extent funds are available. Seven have been received from tribes and two from museums. Seven repatriation grants in the amount of \$75,804 have been awarded. The total of all awards for FY 2005 was \$1,380,189. From grant funds, \$668,000 was apportioned to cover legal expenses of the Department.

The civil penalties rule (43 CFR 10.12) was published in 1997 as an interim rule, and in 2003 as a final rule. In May 2005 an acting civil

penalty coordinator began the organization and review of all pending files, to prepare staffing the cases to the Assistant Secretary. The acting coordinator will continue in the capacity of an investigator when the position is filled.

On November 2, 2004, the Review Committee met via teleconference. The Review Committee made recommendations regarding proposed regulations on the future applicability of the summary, inventory and consultation requirements. On March 13-15, 2005 the Review Committee met in Honolulu, Hawaii. The Committee heard 3 disputes and reconsidered a prior matter, bringing the total number of disputes heard by the Committee to 13. They considered one request for disposition of Culturally Unidentifiable Human Remains, involving one individual, bringing the total of all such requests to 38, accounting for 2,438 human remains. The members for most of FY 2005 of the Review Committee were:

- Ms. Rosita Worl, Chair, Mr. Lee Staples, Mr. Willie Jones, Mr. Vincas P. Steponaitis, Mr. Dan Monroe, Mr. Garrick Bailey and Ms. Vera Metcalf. In September, Secretary Norton appointed Mr. Colin Kippen to fill the expired term of Ms. Vera Metcalf.
- Dr. Timothy McKeown serves as the Review Committee’s Designated Federal Officer.

Excavations and Discoveries

An adjusted total 58 reported pairs of notices have been published, an increase of 4 reported pairs of notices during the reporting period. A request for information was sent to all Federal agencies to determine whether there have been additional publications and/or dispositions.

Regulations

Four reserved sections of the NAGPRA regulations (43 CFR 10) are pending—

- 43 CFR 10.7, Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony, is in development, with consultation with tribes and scientific organizations to be noticed for fiscal year 2006, prior to the drafting of a proposed rule.

- 43 CFR 10.11, Disposition of culturally unidentifiable human remains, has been drafted as a proposed rule, and is under review within the Department of the Interior.
- 43 CFR 10.13, Future applicability, has been published for comment. The comment period ended February 18, 2005. The final rule has been drafted and is under review within the Department of the Interior.
- 43 CFR 10.15(b), Failure to claim where no repatriation or disposition has occurred, is held pending the completion of the above noted regulatory sections.

Technical corrections were published to conform the existing regulations to the Secretarial Order.

Technical Assistance

The National NAGPRA Program provides training offered by the program and hosted by tribes, museums and Federal agencies. During this reporting period staff has presented training and made presentations to more than 1000 participants in addition to supplying training materials for training given by others.

The National NAGPRA website provides an opportunity to supply training and technical guidance on a range of NAGPRA matters. While the website is utilized as a means to notify the public of recent events and contains links to databases, the training opportunities and information capabilities are at present underutilized. Providing tribes, museums, Federal agencies and the public with resources on NAGPRA is the challenge for the coming year.

NAGPRA provides criminal penalties for violations of 18 U.S.C. 1170, Illegal Trafficking in Native American Human Remains and Cultural Items. The cases are investigated by Federal law enforcement agents and handled by the United States Attorney's office throughout the country. National NAGPRA offers training for attorneys and agents and provides technical assistance upon request.

Program Operations

The National NAGPRA office has undergone substantial internal revision. The staff organization and position responsibilities have been re-organized to be consistent with and give coverage to the mandated functions of the Act. A budget was prepared to address the needs of the program relevant to those functions. Four of the National NAGPRA staff departed the program during this period, and two openings will be advertised under the new position descriptions. In addition, the new position of civil penalty and training coordinator was created. When fully staffed, National NAGPRA will consist of a program manager, program secretary, notice coordinator, grants coordinator, Review Committee and regulations coordinator, a database and web coordinator, and a civil penalty and training coordinator.

The program also benefits from the cooperation within the National Park Service of the assistance from a grants administrator and technical support services person, both within the Heritage Preservation Services Program of NPS. The Law Enforcement, Resource Protection, and Emergency Services Program has partnered with the NAGPRA Program by lending personnel as an acting civil penalties coordinator and by partnering to provide training on cultural resource protection.

The program utilizes an antiquated software system that is in critical need of updating. A contract to develop a new information system in SQL Server was in development from FY03 to December 31, 2004. A new contract is in development to transfer to a stable format. The databases are maintained on a sever external to the control of the program and it is anticipated that a server managed by the National Park Service will house the databases by the end of calendar year 2005.

The National NAGPRA staff roster is as follows—

Program Manager: Sherry Hutt
Program Secretary: Robin Coates
Program Officers: Timothy McKeown
 Cynthia Murdock

The program is assisted by contractors:

Jaime Lavallee

David Tarler

Michelle Joan Wilkinson

Lesa Hagel

The program is also assisted by staff support within NPS:

Bob Palmer, Acting Civil Enforcement coordinator (in cooperation with Law

Enforcement, Resource Protection, on detail from Effigy Mounds National Park)

Bob Ruff, Grants administration

Kathleen Murphy and Jane Fu, technical assistance and website maintenance

Collections – 25 U.S.C. 3003 - 3005

National NAGPRA carries out a number of the Secretary of the Interior's responsibilities related to the repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony in the possession or control of museums and Federal agencies. These responsibilities include serving as a repository for summaries and inventories; publishing notices in the Federal Register; administering grants to Indian tribes, Native Hawaiian organizations, and museums; providing staff support to the Native American Graves Protection and Repatriation Review Committee; and providing staff support to the Assistant Secretary for Fish and Wildlife and Parks on the execution of provisions for civil penalties against museums that fail to comply with the Act.

The numbers reported below will vary from the last reporting period as this report was reconciled with the database as of September 2005. The number of notices pending publication substantially increased this reporting period due to new submissions and the inclusion and logging of notices previously received since 1996 which were not logged on the database and/or were not included in the count. There is no longer a category of pending notices as “on hold.” Notices reflect the decision of the agency or museum and are processed for publication upon submission. The 85 notices previously placed on hold since 1996, and pending at the beginning of this reporting period, have been published, were withdrawn by the submitting institution as of September 30, or are actively in the process of publication. There were over 300 total notices pending at the beginning of this reporting period, 76 received over the year, and 195 remaining as of September 30. The notice backlog reduction effort is ongoing.

Summaries & Notices of Intent to Repatriate

Museums and Federal agencies are required to prepare summaries of collections or holdings in their possession or control that may include unassociated funerary objects, sacred objects, and objects of cultural patrimony and provide the summaries to Indian tribes and Native Hawaiian organizations that may be culturally affiliated with the cultural items. Museums and Federal agencies also provide a copy of the summary to National NAGPRA. As of September 30, 2005, National NAGPRA received summaries from 770 museums (397 private, 147 local and 226 state). Summaries have been received from 286 Federal agency

units. Statements of “no summary required” have been received from 104 museums and 315 Federal agency units.

Prior to repatriating unassociated funerary objects, sacred objects, or objects of cultural patrimony, museums and Federal agencies must publish a Notice of Intent to Repatriate in the Federal Register. Twenty-three such notices were published between October 1, 2004 and September 30, 2005, for a total of 317 published Notices of Intent to Repatriate, accounting for 87,105 unassociated funerary objects (increase of 1,986 objects), 3,335 sacred objects (increase of 2,183 objects), 217 objects of cultural patrimony (increase of 3 objects), 662 sacred objects/objects of cultural patrimony (increase of 5 objects).

Inventories & Notices of Inventory Completion

Museums and Federal agencies are required to prepare inventories of human remains and associated funerary objects and provide the inventories to culturally affiliated Indian tribes and Native Hawaiian organizations. Museums and Federal agencies also provide a copy of the inventory to National NAGPRA. As of September 30, 2005, National NAGPRA received inventories from 1,156 institutions (712 museums and 444 Federal agency units). Statements of “no inventory required” have been received from 133 museums and 153 Federal agency units.

Prior to repatriating human remains and associated funerary objects, museums and Federal agencies must publish a Notice of Inventory Completion in the Federal Register.

85 such notices were published between October 1, 2004 and September 30, 2005, for a total of 866 published Notices of Inventory Completion, accounting for 31,571 human remains (increase of 2,321 remains) and 633,525 associated funerary objects (increase of 54,914 objects).

For more information on notices, contact Jaime Lavallee, Notice Backlog Reduction Project, notice coordinator, (jaime_lavallee@contractor.nps.gov).

Culturally Unidentifiable Human Remains Database

660 institutions list culturally unidentifiable human remains in their inventory. This accounts for 118,259 culturally unidentifiable Native American human remains. As of September 30, 2005, 100% were listed on the public access database. The final number is higher than the 111,000 culturally unidentifiable human remains reported in inventories at the start of the database project in November 2004. The increase is due to the efforts of the reporting agencies and museums to verify the original submissions and to submit amended inventories. Most of the original inventories dated to 1995. Also, listed in the database are associated funerary objects. The number of associated funerary objects is 830,130.

For more information about the CUI inventory database, contact Cynthia Murdock, Program Officer, National NAGPRA, (cynthia_murdock@nps.gov).

Grants

NAGPRA authorizes the Secretary of the Interior to make grants to museums, Indian tribes, Native Alaskan villages and corporations, and Native Hawaiian organizations to assist in consultation and in the inventory, documentation, and repatriation of Native American human remains and other cultural items. Congress has appropriated annual funds for NAGPRA grants since FY1994.

Congress appropriated \$2.4 million for grants in FY 2005. Grants for consultation, inventory and documentation are awarded annually on a

competitive basis. The deadline for submission of grants is March 1, of each year. Grants requests are considered by a neutral panel of tribal and museum professionals. Awards are made up to \$75,000 per project. It is not unusual for museums and tribes to combine their efforts in a request of funds for a project. Repatriation grants are awarded throughout the year on a non-competitive basis after review by NAGPRA staff, to the extent that funds are available. In this period, the grants policies for both types of grants were revised. The Repatriation grants policy went into effect immediately upon posting and the revised consultation/inventory and documentation policy will apply to the FY2006 submissions. This information, including guidelines and applications, is available on the National NAGPRA website, <http://www.cr.nps.gov/nagpra/GRANTS/>.

Although the information recorded below separates the statistics on grants by museums and tribes, in reality the distinction is not so clear. Grants requests typically involve one or more museums and one or more tribes in a single project. While the projects vary widely in scope and execution, some focused on certain tribes or museums and others focused on specific parts of collections or objects, the cooperation of tribes and museums in projects to their mutual benefit is the norm. For many, the grants program has become a crucial part of the success stories for which NAGPRA was enacted.

As of March 1, 2005, 48 applications were received for consultation/ documentation grants from 33 tribes and 15 museums, totaling \$ 3.3 million in requests (\$2.3 million from tribes and \$1million from museums). The grants panel included, Ron Wilson, Department of the Interior Museum Management; Paul Lumley, Department of Defense, Indian Liaison Office; and James Bird, National Park Service, Tribal Historic Preservation Services.

FY2005 Grants

Consultation/Documentation Grants	
Bad River Band of Lake Superior Chippewa Indians, WI	\$ 73,518
Confederated Tribes of the Umatilla Indian Reservation, OR	\$ 11,031
Delaware Nation, OK	\$ 74,946
Duckwater Shoshone Tribe, NV	\$ 74,554
Jena Band of Choctaw Indians, LA	\$ 74,686
Mechoopda Indian Tribe of Chico Rancharia, CA	\$ 73,250
Saginaw Chippewa Indian Tribe, MI	\$ 45,966
Sault Ste. Marie Chippewa Indians, MI	\$ 67,525
Sealaska Corporation, AK	\$ 70,339
Shoshone-Pauite Tribes of Duck Valley, NV	\$ 17,176
Sitka Tribe of Alaska, AK	\$ 74,793
Stillaguamish Tribe of Indians, WA	\$ 54,685
Susanville Indian Rancharia, CA	\$ 75,000
Central Council of Tlingit and Haida Indian Tribes of Alaska, AK	\$ 75,000
Colorado Historical Society, CO	\$ 72,468
Museum of Northern Arizona, AZ	\$ 73,966
Rochester Museum and Science Center, NY	\$ 73,000
San Diego Archaeological Center, CA	\$ 75,000
University of Colorado, Boulder, CO	\$ 73,258
University of Nevada, Las Vegas, NV	\$ 74,224
	<u>\$ 1,304,385</u>
Repatriation Grants	
Bois Fork Band of Minnesota Chippewa, MN	\$ 9,105
Caddo Nation, OK	\$ 4,543
Caddo Nation, OK	\$ 5,647
Cheyenne-Arapaho Tribes of Oklahoma, OK	\$ 13,606
Fowler Museum, UCLA, CA	\$ 14,793
Pueblo of Jemez, NM	\$ 13,150
University of Nebraska, Lincoln, NE	\$ 14,960
	<u>\$ 75,804</u>
Total of all grants awarded for FY 2005	\$ 1,380,189
Apportionment for legal fees in <i>Bonnichsen v. United States</i>	\$ 667,800
Congressional across the board cut	\$ 34,000
Apportionment for administrative expenses	\$ 355,011
Total Congressional Appropriation for Grants	<u>\$ 2,437,000</u>

From FY1994 through FY2005, the National Park Service received a combined 1,105 NAGPRA grant applications, for a total request of approximately \$73.3 million. From FY1994 through FY2005, the National Park Service awarded 513 NAGPRA grants, for a total award of approximately \$25.3 million.

For additional information about NAGPRA grants, contact Dr. Michelle Joan Wilkinson, grants coordinator, michelle_j_wilkinson@contractor.nps.gov.

Civil Penalties

NAGPRA authorizes the imposition of a civil penalty levied against any museum that fails to comply with the requirements of the act. Interim regulations specifying the civil penalty process were promulgated in 1997 and the final rule was published in 2003. The regulations for NAGPRA placed the responsibility for civil penalties in the Departmental Consulting Archaeologist for the National Park Service. On May 23, 2005, the Secretary of the Interior delegated the responsibility to the Assistant Secretary for Fish and Wildlife and Parks. The NAGPRA civil penalty coordinator provides staff support to the Assistant Secretary for Fish and Wildlife and Parks.

No civil penalty actions have been brought during FY 2005. However, immediately upon appointment, the acting civil penalty coordinator began to review the existing files and documents to determine the appropriate course of action to recommend to the Assistant Secretary in each case. That review is ongoing. When the civil penalty coordinator assumes the duties, the law enforcement agent currently providing the services of an acting civil penalty coordinator will continue to work as part of the NAGPRA civil penalty staff in the capacity of investigator.

For additional information about civil penalty matters, as of November 13, 2005 contact David Tarler, civil penalty and training coordinator, david_tarler@nps.gov.

Review Committee

The Native American Graves Protection and Repatriation Review Committee was established under NAGPRA with responsibilities that include monitoring and reviewing the implementation of the inventory and identification process and repatriation activities. The National NAGPRA program provides administrative and staff support to the Review Committee on behalf of the Secretary of the Interior.

Authority

25 U.S.C. 3006 (g)(2) The Secretary of the Interior shall—"provide reasonable administrative and staff support necessary for the deliberations of the [Review Committee]."

The Review Committee is organized and administered according to the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1994). In accordance with FACA, the Review Committee's charter must be filed every two years. The Review Committee's current charter expires on November 16, 2006.

Review Committee members are appointed by the Secretary of the Interior from nominations solicited from individuals and groups as stipulated in Section 8 of NAGPRA.

Committee members appointed from nominations received from traditional religious leaders, Indian tribes, and Native Hawaiian organizations are Willie Jones, Lee Staples, and Rosita Worl. Mr. Jones and Mr. Staples are traditional religious leaders, Dr. Worl is the current Review Committee chair.

Committee members appointed from nominations received from national museum organizations and scientific organizations are Garrick Bailey, Dan Monroe, and Vincas Steponaitis.

The Review Committee's seventh member is appointed from nominations submitted and consented to by the other Review Committee members. Vera Metcalf's term expired in June

2004, but she agreed to continue to serve until a new appointment was made. In September 2005, the Secretary appointed Colin Kippen to fill the position.

The Review Committee carries out its specific responsibilities under NAGPRA (25 U.S.C. 3006 (c)), through public meetings, published findings and recommendations, and reports to the Congress. During FY 2005, the National NAGPRA Program assisted the Review Committee in meeting its responsibilities in the following ways:

The Review Committee held two meetings in FY2005.

- On November 2, 2004, the Review Committee met in a public teleconference linking the members with ten remote locations across the country from the eastern seaboard to Anchorage and Honolulu.
- On March 13-15, 2005, the Review Committee met in Honolulu, HI.

The Review Committee was provided with bi-yearly reports of the activities of the National NAGPRA Program. In addition, the Review Committee specifically requested and was provided with information regarding the statutory definition of “Native Hawaiian organization.”

The Review Committee chair and the Designated Federal Officer considered requests for review and findings according to the Review Committee’s Review and Findings Procedures.

Three new requests to facilitate the resolution of disputes were received and considered by the Review Committee:

- Hui Malama I Na Kupuna O Hawai’i Nei and Bishop Museum (REQ026): The dispute concerned three unassociated funerary objects from the Island of Moloka’i. The Review Committee considered the dispute at the Honolulu, HI, meeting, March 13-15, 2005. The Review Committee’s findings and recommendations were that the Bishop Museum proceed toward repatriation by continuing its process of consultation to determine the appropriate

claimant(s) for the three unassociated funerary objects and, when repatriation takes place, the transaction is documented in a fashion consistent with Hawaiian state law.

- Hui Malama I Na Kupuna O Hawai’i Nei and Hawaii Volcanoes National Park (REQ027): The dispute concerned five items from a cave on the Island of Hawai’i. The Review Committee considered the dispute at the Honolulu, HI, meeting, March 13-15, 2005. The Review Committee’s findings and recommendations were that Hawaii Volcanoes National Park initiate aggressive consultation with all claimants and other interested parties, investigate the right of possession issue in light of territorial law in force at the time objects were removed from the cave, and take steps to ensure that it completes the repatriation process by the end of 2005.
- Hui Malama I Na Kupuna O Hawai’i Nei and Bishop Museum (REQ028): The dispute concerned sandstone blocks known as the Kalaina Wawae from the Island of Moloka’i. The Review Committee considered the dispute at the Honolulu, HI, meeting, March 13-15. The Review Committee’s findings and recommendations were that the Bishop Museum and Hui Malama o Mo’omomi work together to revise expeditiously the current memorandum of agreement to require the consent of Hui Malama o Mo’omomi prior to removal of the Kalaina Wawae from the Island of Molokai.

One earlier request was appealed—

- Royal Hawaiian Academy of Traditional Arts and the Bishop Museum (REQ016): The dispute concerns funerary objects from a cave on the Island of Hawai’i. The Review Committee reconsidered the dispute at the Honolulu, HI, meeting March 13-15, 2005. The Review Committee reaffirmed its earlier findings and recommendations.

The Review Committee’s inventory of culturally unidentifiable human remains is available on the National NAGPRA Program website. The

Review Committee issued its final recommendations regarding specific actions for developing a process for dispositions of culturally unidentifiable human remains in 2000 and has reviewed draft proposed regulations to implement such a process. At its March 13-15, 2005 meeting, the Review Committee recommended the disposition of the remains of one culturally unidentifiable individual from Fort Douglas, UT, to the Great Basin Inter-Tribal NAGPRA Coalition, representing a consortium of federally recognized Indian tribes.

The Review Committee's current charter identifies the National NAGPRA Program manager or designee as the Review Committee's Designated Federal Officer, a role required by the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1994). The Designated Federal Officer (DFO) must (a) Approve or call the meeting of the advisory committee or subcommittee; (b) Approve the agenda . . . ; (c) Attend the meetings; (d) Adjourn any meeting when he or she determines it to be in the public interest; and (e) Chair the meeting when so directed by the agency head (41 CFR 102-3.120). The DFO must also "ensure that minutes are certified within 90 calendar days of the meeting to which they relate" (41 CFR 102-3.165 (c)). In the Review Committee's charter, the Designated Federal Officer is required by section 10 of FACA to oversee the management of the Committee. The Designated Federal Officer is not a member of the Review Committee. Dr. Sherry Hutt, Manager, National NAGPRA Program, delegated Dr. Timothy McKeown to serve as Designated Federal Officer from October 1, 2004-September 30, 2006.

For more information about the Review Committee, contact Dr. Timothy McKeown, Designated Federal Officer, National NAGPRA (tim_mckeown@nps.gov.)

Excavations and Discoveries – 25 U.S.C. 3002

NAGPRA requires that the ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after November 16, 1990 be subject to disposition in a priority order specified in the Act.

National NAGPRA has responsibilities under the excavations and discoveries section of the law to maintain the records of notices of intended disposition published in newspapers.

Notices of Intended Disposition

An adjusted 58 pairs of notices have been published, an increase of 4 pairs of notices during FY 2005. Agencies were sent a request to update the National NAGPRA Program of their dispositions not contained in the program records. Available at: http://www.cr.nps.gov/nagpra/notices/NID_Tble_Current.pdf.

NAGPRA Regulations – 43 CFR 10

By delegation of authority from the Secretary of the Interior, National NAGPRA is responsible for drafting regulations to implement the Act.

Authority

25 U.S.C. 3011 “The Secretary [of the Interior] shall promulgate regulations to carry out this Act ...”

Discussion

Regulations provide clarification and guidance in interpreting and implementing Federal laws. Prior to publishing a final regulation, Federal agencies must publish proposed rules that include either the terms or substance of the proposed rule and/or a description of the subjects and issues involved. The National Park Service follows the Administrative Procedures Act and other statutes in promulgating regulations. Draft regulations are reviewed internally within the National NAGPRA Program, in other programs and the Director’s office within the National Park Service, and within the U.S. Department of the Interior prior to publication for public comment or as a proposed rule. The Native American Graves Protection and Repatriation Review Committee has an active role in the preparation of 43 CFR 10. The Review Committee, as provided in Section 8 of NAGPRA, provides initial commentary and guidance for preparation of drafts by NAGPRA staff. After the National Park Service completes an internal review of the draft regulations, the National NAGPRA Program provides copies to the Review Committee for additional comment. Interested persons may participate in the rulemaking through Review Committee meetings and submission of written comments.

Reserved Sections

Information about reserved sections of the regulations is available on National NAGPRA’s Website at http://www.cr.nps.gov/nagpra/MANDATES/Reserved_Sections.htm. Currently, four reserved sections of the

NAGPRA regulations remain to be promulgated—

- **Section 10.7. Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony.** This section addresses a process for resolving situations that arise when human remains, funerary objects, sacred objects, or objects of cultural patrimony are removed from Federal or tribal lands after November 16, 1990, and are not claimed by a lineal descendant, Federally recognized Indian tribe, or Native Hawaiian organization. The National NAGPRA Program is undertaking consultations with the Native American Graves Protection and Repatriation Review Committee, Native American groups, and representatives of museum and scientific organizations prior to drafting the regulation, as required by NAGPRA. The National NAGPRA Program has given notice that consultation will occur prior to and during the Review Committee meeting to be held in November 2005.
- **Section 10.11. Disposition of culturally unidentifiable human remains.** A draft of this section was provided for Review Committee comment at the May 2002 meeting in Tulsa, OK, and the November 2002 meeting in Seattle, WA. The draft regulations were edited to incorporate the Review Committee’s comments and a proposed rule is currently under review within the Department of the Interior. The proposed rule will be published for public comment.
- **Section 10.13. Future applicability.** The Review Committee reviewed a draft of this section in 1996 and in 2002. A proposed rule was approved for publication by the Assistant Secretary for Fish and Wildlife and Parks on September 24, 2004 and was published for public comment on October 20, 2004. Comments were received from

museums, Federal agencies, national scientific or museum organizations, national Native American organizations, non-Federally recognized Native American groups. The final rule is under review by the Department of the Interior.

- **Section 10.15 (b). Failure to claim where no repatriation or disposition has occurred.** Drafting has not yet begun on this section of the regulations.

For more information on regulations contact Dr. C. Timothy McKeown, Program Officer, National NAGPRA, (Tim_McKeown@nps.gov)

Technical Assistance

National NAGPRA recognizes the importance of providing regular and accessible NAGPRA training to help further understanding of the statute, regulations, and their requirements. National NAGPRA also seeks to raise public awareness of NAGPRA and NAGPRA compliance responsibilities through a variety of outreach activities.

Training

National NAGPRA offers both general and specialized NAGPRA training, with an emphasis on quality, accessibility, and cost-effectiveness for participants. In this reporting period National NAGPRA has partnered with the National Preservation Institute to provide training open to all tribes, museums, Federal agencies and the public. National NAGPRA also provides specialized training designed to address particular NAGPRA implementation issues as requested by a host tribe, museum, or Federal agency. Training has been offered as part of larger conferences and as independent sessions of one to three days in length.

During FY2005, National NAGPRA provided training for 1,070 individuals. FY2005 NAGPRA training offerings are summarized below (with number of attendees).

- American Bar Association Cultural Property Subcommittee of the International Law Section (15)
- Bureau of Indian Affairs, ICRMP (90)
- Chitimacha Tribe, LA (15)
- Choctaw Indian Tribe, Tribal Governance Conference (80)
- Department of the Interior Office of Collaborative Action and Dispute Resolution (20)
- Federal Energy Regulatory Commission (60)
- Federal Training Working Group (40)
- First Nations International Repatriation Symposium (Quebec) (150)
- George Washington University, American Studies Department (15)
- Harvard Department of Anthropology and the Peabody Museum (25)
- National Association of Tribal Historic Preservation Officers (125)
- National Guard Bureau (all 54 units) (35)

- National Tribal Museums Conference (60)
- NCSHPO conference Washington, DC (12)
- NPS Conference on Contaminated Collections (20)
- NPS Law Enforcement, Ranger training, Gettysburg, PA (8)
- NPS Law Enforcement, Ranger training, Chattanooga, TN (10)
- Society for American Archaeology (20)
- Society of American Indian Government Employees (45)
- Udall Institute for Environmental Conflict Resolution (20)
- U.S. Senate, Committee on Indian Affairs (70)
- University of Maine Law School (45)
- University of Nevada, Las Vegas, Anthropology Department (40)
- USDA Forest Service, Office of Indian Liaison (50)

For more information on National NAGPRA training, see <http://www.cr.nps.gov/nagpra/TRAINING>, or contact Sherry Hutt, (sherry_hutt@nps.gov)

National NAGPRA strives to maintain an exemplary standard of responsiveness to inquiries from the public and the media. National NAGPRA monitors two public e-mail addresses, NAGPRA_Info@nps.gov and NAGPRA_Grants@nps.gov. Both e-mail addresses provide an effective way for members of the public to direct inquiries to the program. The redesigned National NAGPRA Website also features a “Press” page, with links to documents on the Website available for use as background by members of the media. All National NAGPRA staff respond to telephone inquiries from the media, tribes, museums, Federal agencies and the public and provide technical

information. During the reporting period, National NAGPRA provided information to the following news outlets and media enterprises:

- Alaska Public Radio Network,
- Arkansas Post,
- Associated Press (Denver Bureau),
- Honolulu Advertiser,
- Honolulu Star-Bulletin,
- Independent Native News (Fairbanks),
- Juneau Empire,
- Native American Times,
- Plain Dealer,
- Rocky Mountain News,
- Salt Lake Tribune.

National NAGPRA provided information to the following members of Congress:

- Office of Congressman Norm Dicks,
- Office of Senator Jim Talent,
- Senate Indian Affairs Committee.

Website

The National NAGPRA Website (<http://www.cr.nps.gov/nagpra>) continues to be the program's primary medium for electronic communication. Major sections are summarized below.

The menu includes links to new navigational pages for Frequently Asked Questions, Online Databases, and Documents and Publications, training, law and regulations. There are links to Links to the Past (NPS cultural resources programs), ParkNet (the NPS homepage), FOIA statement, Privacy statement, Disclaimer, FirstGov (the U.S. Government's official Web portal) and a link to the U.S. Department of the Interior (DOI Home).

The Frequently Asked Questions page (<http://www.cr.nps.gov/nagpra/FAQ/index.htm>) is designed to provide answers to the most common NAGPRA questions. Topics addressed in the FAQ include NAGPRA information, as well as specialized subjects, such as inadvertent discoveries, the status of non-federally recognized tribes under NAGPRA, and international repatriation. The FAQ also includes links to the NAGPRA Glossary (see below for more information).

National NAGPRA provides online access to three searchable databases—the Native American Consultation Database (NACD), Notices of Inventory Completion, and Notices of Intent to Repatriate—through a cooperative agreement with the Center for Advanced Spatial Technologies (CAST) at the University of Arkansas. With the continued development of National NAGPRA's in-house database capacity, it is planned that the searchable online databases hosted by CAST will eventually be moved to a NPS server, along with new searchable databases currently in development. With this anticipated shift in mind, the Online Databases page (<http://www.cr.nps.gov/nagpra/ONLINEDB/index.htm>) was added to the National NAGPRA Website to provide a single entry point for accessing all current and future National NAGPRA online databases.

The Documents and Publications page (<http://www.cr.nps.gov/nagpra/DOCUMENTS/index.htm>) was added to the National NAGPRA Website to provide a single point for locating the various print and electronic publications produced by the program. The Documents and Publications FY04 National NAGPRA Final Report has links to maps (Indian Reservations in the Continental United States, Indian Land Areas Judicially Established 1978, and Military Bases in the Continental United States); National NAGPRA reports; and National NAGPRA Update, the newsletter of National NAGPRA .

The Training page (<http://www.cr.nps.gov/nagpra/TRAINING/index.htm>) features a new section titled "Training Resources," designed to provide online access to information that complements National NAGPRA's training efforts. The Training Resources section includes links to PDF versions of many of the handouts used in National NAGPRA training, as well as a link to the NAGPRA Glossary (<http://www.cr.nps.gov/nagpra/TRAINING/GLOSSARY.htm>). The NAGPRA Glossary provides definitions for many of the specialized terms used in NAGPRA. Links to specific items in the Glossary appear throughout the National NAGPRA Website. The NAGPRA Glossary is a

working document, and users are invited to submit comments to NAGPRA_info@nps.gov.

The Law and Regulations section of the Website (<http://www.cr.nps.gov/nagpra/MANDATES/index.htm>) has been expanded to include new subsections on “Summaries, Inventories, and Notices,” “Excavations and Inadvertent Discoveries,” “Consultation,” “Legislative and Regulatory History,” and “NPS Congressional Testimony.” New information has also been added regarding the reserved sections of the NAGPRA regulations (http://www.cr.nps.gov/nagpra/MANDATES/Reserved_Sections.htm).

For more information about National NAGPRA information systems, contact Cynthia Murdock, National NAGPRA Program officer at Cynthia_Murdock@nps.gov.

Illegal Trafficking

NAGPRA provides criminal penalties for violations of 18 U.S.C. 1170, Illegal Trafficking in Native American Human Remains and Cultural Items.

The cases are investigated by Federal law enforcement agents and handled by the United States Attorney’s offices throughout the country. National NAGPRA offers training for attorneys and agents and provides technical assistance upon request.

During FY2005 technical assistance was given to law enforcement agents investigating alleged offenses. No court convictions were reported during FY2005.

FY 2005 Budget

The National NAGPRA Program receives appropriations from Congress for grants and grants administration. Funding is also provided through the National Park Service. The figures below are in thousands and are approximate pending final invoices.

Funding:		Operational Expenses:	
Congressional net appropriation grants	\$ 2.437	Personnel Compensation:	\$ 530
Grants administration appropriation	176	Contractors, IT support:	100
Operations funding from NPS	350	Publication (Fed. Reg.)	60
		Travel for training, staff Review Com.	34
		IT contractors, server	35
		Equipment, telephone, fax, copier	14
		Supplies	8
		Civil penalties	10
		Interns	10
		Review Committee transcripts	25
		Review Committee travel & expenses	54
Total of funding sources:	\$ 2.963	Total of operational expense	\$ 880
		Total Grants awards	\$ 1.381
		Legal fees	\$ 668
		Congressional across the board cut	\$ 34
		Total expense	\$ 2.963

NATIONAL NAGPRA ORGANIZATIONAL CHART

