

National Park Service  
U.S. Department of the Interior  
National NAGPRA

# **National NAGPRA FY06 Midyear Report**

## **For the period October 1, 2005 –March 31, 2006**

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## **NAGPRA Introduction**

*This report covers activities of the National NAGPRA Program for fiscal year 2006 (FY 2006-October 1, 2005 –March 31, 2006). All information and statistics reported are current as of close of business, March 31, 2006. 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. National NAGPRA is the omnibus compliance program, the constituents groups of which are all federal agencies, museums that receive federal funds, tribes and Native Hawaiian organizations.

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 which 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 is 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 which 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 March 31, 2006. For more information on notices, contact Jaime Lavallee, notice backlog reduction project, National NAGPRA (Jaime\_Lavallee@contractor.nps.gov).

### Summaries and Notices of Intent to Repatriate:

Summaries have been received from 1060 institutions. Additionally, 459 statements of “no summary required” have been received.

There have been 331 Notices of Intent to Repatriate published, an increase of 14 notices during FY 2006. These 331 notices account for 102,430 funerary objects, 3,341 sacred objects, 279 objects of cultural patrimony, and 707 sacred objects that are also cultural patrimony. The 14 new notices represent 10,054 unassociated funerary objects, 6 sacred objects, 2 objects of cultural patrimony, and 45 sacred objects that are also objects of cultural patrimony.

### Inventories and Notices of Inventory Completion:

Inventories have been received from 928 institutions. Of these, 479 contain decisions as to cultural affiliation of Native American human remains, and 667 contain listings of culturally unidentifiable Native American human remains. Note: There may be duplication of reporting for collections as the law directs those museums with possession or control of collections to submit an inventory and several museums may have collections belonging to federal agencies, where both the museum and federal agency submitted an inventory.

There have been 901 Notices of Inventory Completion published accounting for 32,052 human remains and 660,222 associated funerary objects. There were 34 notices published thus far in FY 2006, accounting for 468 human remains and 26,673 associated funerary objects.

### Culturally Unidentifiable Human Remains:

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 667 inventories containing culturally unidentifiable Native American human remains accounting for 118,352 individuals for whom cultural affiliation has not yet been determined and 852,660 funerary objects associated with those individuals. There have been 3,626 individuals affiliated or transferred since first inventoried as unidentifiable.

### Grants:

Congress appropriated \$ 2.4 million for grants in FY 2006, less congressional holdbacks. The grant application deadline for consultation/documentation grants was March 1, 2006. Repatriation grants are received on a rolling basis. A total of 66 grants applications have been received: 57 consultation/documentation proposals and 9 repatriation funding requests. Of these 49 are from Indian tribes and Native Hawaiian organizations, an increase of 8 over FY 2005, and 17 are from museums, the same as in FY 2005. The total amount of the requests was \$3.7 million, an increase of \$.4 million from FY 2005.

Grant applications for consultation/documentation projects were reviewed by an outside panel and notice of their decisions is pending computation of the final scores and preparation of funding reports. Each applicant will receive an individualized letter from the grants coordinator containing valuable feedback obtained from the panel to assist applicants in preparing better grant proposals in the future and in administering successful projects. For more information on grants, contact Michelle Joan Wilkinson, grants coordinator, National NAGPRA, (Michelle\_J\_Wilkinson@nps.gov).

### Civil Penalties:

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, the Secretary of the Interior issued a Secretarial Order placing responsibility for civil penalties within the National NAGPRA program to staff to the Assistant Secretary Fish and Wildlife and Parks, in a consultative relationship with the Assistant Secretary Indian Affairs. The civil penalty coordinator position was filled February 4, 2006, by David Tarler, who is an archaeologist and a lawyer. The National Park Service is assisting the National NAGPRA program with the assignment of law enforcement personnel to investigate the pending allegations of failure to comply. For more information on civil penalties, contact David Tarler, enforcement coordinator, National NAGPRA, (David\_Tarler@nps.gov).

The National NAGPRA website contains guidance on allegations that a museum has failed to comply, complete with a template letter for reporting a violation.

[www.cr.nps.gov/nagpra/civil\\_penalties](http://www.cr.nps.gov/nagpra/civil_penalties)

## Review Committee:

The members for most of FY 2006 of the Review Committee have been: Ms. Rosita Worl (chair), Mr. Garrick Bailey, Mr. Willie Jones, Mr. Colin Kippen, Mr. Dan Monroe, Mr. Lee Staples, Mr. Vincas P. Steponaitis.

Mr. Tim McKeown serves as the Review Committee's Designated Federal Officer. The DFO attended training on the Federal Advisory Committee Act (FACA), in February. For more information on the Review Committee contact, C. Timothy McKeown, Designated Federal Official (Tim\_Mckeown@nps.gov).

In December 2005, member Lee Staples resigned from the Review Committee. On February 1, 2006, a notice was published in the Federal Register soliciting nominations from Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders, to be submitted to the Secretary for the appointment of a replacement who is a traditional Indian religious leader. The period for nominations ends April 3, 2006.

On November 16-17, 2005, the Review Committee met in Albuquerque, New Mexico. The Committee was consulted by the National NAGPRA program on regulations for the disposition of cultural items excavated or removed from Federal or tribal lands after November 16, 1990 [43 CFR 10.7]. They made recommendations regarding disposition of culturally unidentifiable Native American human remains, discussed the 2005 report to Congress, and considered revisions to procedures regarding meetings, findings and recommendations, and disputes.

On March 3, 2006, the Review Committee met via teleconference. The Review Committee made recommendations regarding disposition of culturally unidentifiable Native American human remains.

## **Excavations and Discoveries**

### **Notices of Intended Disposition**

An adjusted 61 pairs of notices have been published, an increase of 3 pairs of notices during FY 2006. Agencies were sent a request to update the National NAGPRA Program of their dispositions not contained in the program records. A listing of these notices is available at: [www.cr.nps.gov/nagpra/notices/NID\\_Tble\\_Current.pdf](http://www.cr.nps.gov/nagpra/notices/NID_Tble_Current.pdf).

## **Regulations**

The technical changes implementing Secretarial Order 3261 went into effect on September 30, 2005.

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, 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.

For more information on regulations contact, C. Timothy McKeown (Tim\_Mckeown@nps.gov).

## **Technical Assistance**

### Training:

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 601 participants in addition to supplying training materials for training given by others. For more information on training, contact David Tarler (David\_Tarler@nps.gov).

Thus far in FY 2006 National NAGPRA has provided training and program presentations as summarized below with the number of attendees.

USDA Forest Service, DC (30)  
 American University, Washington College of Law (60) two presentations  
 United States Holocaust Museum (40)  
 Program sponsored training prior to November Review Committee meeting (80)  
 American Anthropological Association (20)  
 National Association of Indian Housing (80)  
 Federal Training Working Group (68) two presentations  
 National Park Service Washington Office employees (25)  
 FBI Art Crime Team (14)  
 Department of the Interior Solicitors (18)  
 Good Neighbor Environmental Board (40)  
 Buffalo River NP (20)  
 Oklahoma tribes (49)  
 National Preservation Institute (12)  
 National Guard Bureau (15)  
 American Association of Museums (30)

### Outreach:

During this reporting period the National NAGPRA program provided information to the following:

News outlets and media enterprises:

*Honolulu Advertiser, Honolulu Star-Bulletin, Native American Times, Plain Dealer, Rocky Mountain News, Native America Calling (radio), Seattle Times, Cortez Journal.*

Legislative and public information:

Congressman Ed Case  
Senator John McCain  
Senator Byron Dorgan  
Senator Barack Obama

Website:

The National NAGPRA website provides an opportunity to supply training and technical guidance on a range of NAGPRA matters. Two new public access databases have been completed that will aid research for geographic information on tribes to assist in further identification of culturally unidentifiable human remains: 1. Notice database by state, and 2. Royce maps library of treaty areas. For more information on databases and the National NAGPRA website, contact Cynthia Murdock (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 office throughout the country. National NAGPRA offers training for attorneys and agents and provides technical assistance upon request. For more information on cultural property law and enforcement, contact David Tarler (David\_Tarler@nps.gov).

## **Program Operations**

Operational Management:

The National NAGPRA program employed a software contractor to prepare databases currently housed on an external server to be moved in-house. Once NPS clears the NAGPRA program items for public access on the server the transfer will be complete. Transfer date is anticipated to be May 15, 2006.

The program utilizes an antiquated software system that is in critical need of updating. A new contract is in development to transfer to a stable format within FY06.

Externs, Interns:

The National NAGPRA program forms partnerships with the National Center for Preservation Education (NCPE), laws schools and universities, and the Cultural Resources Diversity Program within NPS to offer internships in government service and externships from law schools where students earn course credit. Intern/extern projects provide numerous benefits to the National NAGPRA program and the communities that it serves.

The externs/interns and the projects in progress during the reporting period are:

James DeBergh, extern, Washington School of Law, American University, state burial law project, under the direction of David Tarler, January to May, 2006.

Sarah Husain, intern, National Council for Preservation Education (NCPE), Royce maps database project and notice database project, under the direction of Cynthia Murdock, October 2005 to June 2006.

National NAGPRA Staff:

The National NAGPRA staff roster as of March 31, 2006 is:

*Program Manager:* Sherry Hutt  
*Program Secretary:* Robin Coates  
*Program Officers:* Tim McKeown  
Cynthia Murdock  
David Tarler

The program is assisted by contractors:

Michelle Joan Wilkinson  
Jaime Lavalley  
Lesa Hagel

The Acting Civil Enforcement coordinator is Bob Palmer (in cooperation with Law Enforcement, Resource Protection, on detail from Effigy Mounds National Park).

In addition, the National NAGPRA program receives support from other NPS employees:

Bob Ruff, grants administration  
Kathleen Murphy, IT support  
Jane Fu, IT support