



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Mr. Francis P. McManamon
Chair
Native American Graves Protection
and Repatriation Review Committee
Department of the Interior
c/o National NAGPRA Committee
National Park Service
Washington, DC 20240

Dear Mr. McManamon:

Thank you for your letter dated March 14, 2022, to Secretary of the Interior Deb Haaland (Secretary) regarding the Native American Graves Protection and Repatriation Act (NAGPRA) draft proposed rule. On behalf of the Secretary, we thank you for your service on the NAGPRA Review Committee (Review Committee) and appreciate your time, effort, and willingness to advise the Department of the Interior (Department) on matters under your purview.

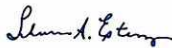
As you are well aware, revisions to the NAGPRA regulations are long overdue. Secretary Haaland is committed to finalizing and implementing effective revisions that address the needs expressed by Indian Tribes and the Native Hawaiian Community. In order to realize this goal, the Department is diligently working to incorporate the Tribal input received during the first round of Tribal consultation into a regulatory proposal that reflects articulated needs from Tribal communities to the maximum extent possible. We believe there is a compelling need to publish revised regulations as soon as possible in order to avoid any further delays to the repatriation processes under the existing regulations. During Tribal consultation, we committed ourselves and the Department to doing as much as we could to improve the regulatory process and achieve lasting change for Indian Tribes and Native Hawaiian organizations seeking to restore their ancestors and cultural heritage under NAGPRA.

We recognize the vital role of the Review Committee in consulting with the Secretary on these regulations. Since July 13, 2021, the Review Committee has been discussing the revised regulations and has been working to develop written recommendations for the Department's consideration. Because of the needs described above to proceed with regulatory revisions without undue delay, we ask that you provide any remaining recommendations to the Department during the public comment period of the proposed rule. The Department will consider the Review Committee's recommendations in development of the final rule.

We appreciate all of the Review Committee's recommendations in its letter of March 14, 2022. The enclosure responds to those recommendations that do not relate to the regulations. If you have any questions, please contact Ms. Melanie O'Brien, National NAGPRA Program Manager, at melanie_o'brien@nps.gov.

Thank you for your commitment to our shared goal to improve the regulatory process for repatriation. Please share this response with the Review Committee.

Sincerely,



Date: 2022.04.18
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Shannon Estenoz
Assistant Secretary
for Fish and Wildlife and Parks



Bryan Newland
Assistant Secretary — Indian Affairs

APR 19 2022

Enclosure

Enclosure

Responses to specific recommendations:

Regarding appointments to the Review Committee, the National Park Service (NPS) solicited nominations for the currently vacant position in the summer of 2021 (86 FR 30626, June 9, 2021). The nominations are under consideration by the Secretary of the Interior (Secretary), and the appointment will be made as soon as possible. Earlier this month, the NPS submitted draft notices to solicit nominations for additional positions, and we expect those notices to be published soon. The NPS will submit those nominations in a timely manner to the Secretary for appointment. We appreciate the impact these appointments have on the work of the Review Committee. The NPS has sought to mitigate this impact by scheduling additional meetings prior to each occurrence of new vacancies. As you know, the NPS scheduled six virtual meetings prior to the first vacancy on August 20, 2021, and eight virtual meetings prior to May 10, 2022, with two additional meetings in response to your request for additional time. We encourage the Review Committee to take advantage of the time that is scheduled for it. The NPS will continue its efforts to schedule meetings to minimize the impact of vacancies, while continuing its efforts to ensure nominations are timely submitted to the Secretary.

Regarding the economic impacts of regulatory changes, the NPS prepares a cost-benefit analysis and regulatory flexibility threshold analysis for any proposed regulatory action, including the revised regulations that implement NAGPRA. The costs and benefits of any regulatory action are analyzed based on guidance from the Office of Management and Budget (OMB, 2003, Circular A-4: guidance for developing regulatory analyses, September 17, 2003). Consistent with its normal practice, the NPS will include its cost-benefit analysis as part of the preamble of the proposed regulations, and during the public comment period, the NPS welcomes input on that analysis.

Regarding improvements to ensure effective implementation of revisions to the NAGPRA regulations, we note that the elements of your request are not specific to the regulatory process but relate to issues over which the NPS has delegated authority. The Manager, National NAGPRA Program, is responsible for developing and issuing guidelines, technical information, training, and other programs related to NAGPRA implementation. In coordination with the NPS Office of Communications, the Manager, National NAGPRA Program, has a communication plan in place to address the various tools, tasks, and audiences for communication with the Program. Central to this plan has been the development of a new website (nps.gov/nagpra) and new public facing databases (nps.gov/nagpra/databases.htm). In addition, the Program has developed new data visualizations and reporting formats to share information about NAGPRA with a broader audience. The Program has also leveraged existing social media and other external communication networks to inform the general public and the NAGPRA community of meetings, events, and other items of interest. Even in the midst of the global pandemic, the Program continued regular outreach through presentations and direct technical assistance to thousands of individuals.

Regarding a database and listserve of NAGPRA contacts, the Manager must balance the benefits and cost (both time and money) of this suggestion along with the legal limitations on collecting and using this kind of information. For government-to-government consultation, the Department of the Interior (Department) is responsible for managing communications to ensure meaningful consultation. As noted in your recent discussions on this topic, Tribal leaders, not the

Department, are responsible for internal communications to employees of their Tribal governments and their Tribal members.

Regarding reporting on allegations of failures to comply, the National NAGPRA Program is working to develop new reporting methods for civil enforcement activities. In its next annual report for Fiscal Year 2022 (ending Sept 30, 2022), the National NAGPRA Program will provide additional statistical information on the number of allegations.

Regarding additional resources, the National NAGPRA Program recently hired a full-time investigator and will soon be hiring a notices and grants coordinator. The NPS provides additional support for the National NAGPRA Program through centralized administrative and business services.