



The Confederated Tribes of the Colville Reservation

P.O. Box 150, Nespelem, WA 99155

(509) 634-2200

FAX: (509) 634-4116



September 29, 2021

Via email only

The Honorable Bryan Newland
Assistant Secretary, Indian Affairs
bryan_newland@ios.doi.gov

The Honorable Shannon Estenoz
Assistant Secretary for Fish and Wildlife and Parks
shannon_estenoz@ios.doi.gov

Ms. Melanie O'Brien, Program Manager
National NAGPRA Program
National Park Service
melanie_o'brien@nps.gov

RE: Review and Comments to the draft proposal to revise regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA, 43 CFR 10)

Dear Assistant Secretary Newland, Assistant Secretary Estenoz and Ms. O'Brien:

The Confederated Tribes of the Colville Reservation (CTCR) thanks you for your efforts to consult on the draft proposal to revise regulations implementing NAGPRA. We understand this draft was under development for some time during previous administrations. The CTCR appreciates your wisdom and willingness to engaging in fresh government-to-government consultation with Indian tribes and Native Hawaiian organizations prior to proceeding to the regular notice and public comment process. We also appreciate the online listening sessions scheduled in July and August of this year. These consultations brought forth issues we had not considered and reinforced our concern of other issues.

The extended the period allotted for receipt of requested changes and comments to this lengthy and highly technical document was greatly appreciated. With that extension, the CTCR was able to review the proposed changes and formulate **initial** comments and concerns for some of the sections, but not the entire document. We would appreciated the ability to view the comments of the other tribes and have an understanding of the number of tribes participating, either in writing or voicing their concerns and remarks during the online consultations.

There is indeed a need to revise some sections of 43 C.F.R. Part 10 regulations—we have learned a great deal about how the regulations work or do not work since their inception. But, the regulations cannot be revised without further consultation with the affected communities or without consultation with those who do the “boots on the ground” work. Additional tribal review of the proposed final rule would also have to be conducted by tribal legal staff. To that end, the regulations have been in place for 26 years, the CTCR feels there is no urgency to push draft regulations through without thoughtful and mindful consultation. In many instances the present regulations can stand and serve as currently written.

The CTCR appreciates the work that has gone into producing this draft document. We feel this is a good and necessary beginning. While the regulations can be revised, NAGPRA law has to be amended in order to remove the barriers preventing repatriation of, not only human remains and funerary objects, but also

for objects of cultural patrimony and sacred objects. As the law is now written, no amount of redrafting of the regulations supports the repatriation of cultural material that needs to come home.

In general, we do not feel that many of the proposed changes clarify, simplify, or expedite the NAGPRA process. The proposed language, while seeking to simplify the Law, mostly complicates the process. We are particularly alarmed at some of the procedural changes proposed, especially in regard to consultation and dissemination of information, such as Summaries and Dispositions.

With regard to the organizational placement of the NAGPRA Program, we prefer the Program stay within the National Park Service (NPS). Although we do understand the issues brought forth related to the program remaining in the NPS. The CTCR could also support the re-delegation of some of the Secretary's NAGPRA responsibilities to the Office of the Assistant Secretary for Indian Affairs. **We do not** support the NAGPRA Program being within the Bureau of Indian Affairs.

Whether this Program remains in NPS or moves to the Office of the Assistant Secretary for Indian Affairs or whether the regulations are changed or not, in order for the NAGPRA Program to move forward in a meaning and effective manner, tribal nations need assurances that the following issues are taken seriously and are acted upon:

- ❖ The current level of support needs to remain the same until the next fiscal year
- ❖ Increasing the operating budget, annually, becomes a priority
- ❖ The concerns and recommendations that the Review Committee has made throughout the years are reviewed and thoughtfully and seriously acted upon
- ❖ Amending the NAGPRA Law becomes a priority and begins, as soon as possible

In addition to the attached comments and recommendations to the proposed draft regulations, we respectfully request additional tribal consultation as this work goes forward. This of course, can take many forms and can have many partners in order to hear as many voices as possible.

Please feel free to contact the CTCR's Repatriation Specialist, Jacqueline Cook to discuss this matter further (jackie.cook@colvilletribes.com 509-634-2635). Contact me (guy.moura@colvilletribes.com or 509-634-2695) if there are any questions or concerns.

We look forward to working with you, your staff, the National NAGPRA staff, and Review Committee on this sacred issue.

Sincerely,



Guy Moura, Tribal Historic Preservation Officer

Attachments: CTCR Review and Comments
Colville Business Council Resolution 1995-495

Copies:
Jacqueline Cook, For the File