

**STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR,
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PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
COMMITTEE ON INDIAN AFFAIRS CONCERNING THE OVERSIGHT OF THE
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT.**

July 25, 2000

Mr. Chairman, thank you for the opportunity to appear before you today to discuss the Department of the Interior's views on the administration of the Native American Graves Protection and Repatriation Act (NAGPRA).

NAGPRA was enacted on November 16, 1990. The law assigned the Secretary of the Interior several general responsibilities for implementation, principal among them are:

- developing regulations implementing the statute,
- administering a grants program to assist museums, Indian tribes, and Native Hawaiian organizations in complying with their responsibilities under the statute, and
- creating and administering a review committee of seven citizens to advise on regulations and assist in implementing some of the other parts of the statute.

In the nearly 10 years since the enactment of the law, the National Park Service has carried out these general responsibilities on behalf of the Secretary. The National Park Service has the experience and mandate for working with other public agencies and museums, as well as Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations in other aspects of our national archeological and historic preservation program. The National Park Service also has expertise in ethnography, archeology, collections management and curation, history, and other subjects needed in implementation of the statute. Its staff includes qualified professionals who are experts in the types of information relevant to reaching decisions (e.g. geography, kinship, biology, archeology, linguistics, oral tradition, and history). The National Park Service also has expertise and programs that are relevant to procedural areas covered by NAGPRA, such as inadvertent discoveries, archeological and ethnographic collections, grants programs to Native Americans, and tribal historic preservation programs.

Since the Native American Graves Protection and Repatriation Act was enacted in 1990, the National Park Service has assisted in implementing the Secretary of the Interior's NAGPRA responsibilities. The National Park Service's NAGPRA duties have included technical assistance to tribes, museums, other Federal agencies, and parks; training and public awareness efforts; drafting regulations and guidelines; assisting museums with inventories and Federal Register notices; developing and administering a NAGPRA grants

program; and providing administrative support for the Native American Graves Protection and Repatriation Review Committee.

Between 1990 and 1999 important progress was made in implementation of the law. The Department of the Interior issued written guidance in 1993 and 1995 to assist museums, agencies, Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations as they prepared summaries and inventories required by the law. In 1995 regulations covering many of the important activities called for by NAGPRA were issued after a careful process of development that included close consultation with the Review Committee established by the law and substantial public comment. The Review Committee, chartered and appointed by the Secretary of the Interior in 1991 has, through the 19 meetings it has held so far, familiarized thousands of members of the public with the requirements of the statute. Through a formal process, the committee has helped to resolve three major disputes among museums, tribes, Alaska Native villages and corporations, and Native Hawaiian organizations. The committee has assisted in the repatriation of specific sets of “culturally unidentifiable” Native American human remains.

Since 1994, the NPS has been able to provide over \$15 million through the NAGPRA grants program to Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations and museums to assist them in carrying out their responsibilities under the law. Of the total funds, roughly two-thirds have gone to Indian tribes, Alaska Native villages and corporations, or Native Hawaiian organizations. Many of the grants have been for cooperative projects in which tribes, Alaska Native villages and corporations, or Native Hawaiian organizations have worked together with museums or agencies, thereby supporting the development of improved relationships between these groups. The National Park Service also has provided thousands of individuals and organizations with technical assistance in their own efforts to implement the law through formal training sessions, information on our World Wide Web site (<http://www.cr.nps.gov/aad/nagpra.htm>), and through presentations at dozens of organizations’ meetings.

The National Park Service was aware of the concern that existed about its dual role of both administering the NAGPRA program while also having to comply with it as a federal agency. Following an oversight hearing by this committee in April 1999 that raised concerns about the manner in which the NPS was administering the Secretary’s responsibilities, the NPS was directed by the Secretary to consider alternatives for administering these duties. Three alternatives were developed. In November 1999, the Secretary’s office directed the National Park Service to proceed with Alternative II which assigns the general NAGPRA function directly to the Assistant Director, Cultural Resources Stewardship and Partnerships. This action removes the function from supervision by an archeologist, and places it at a higher level in the agency. Implementation of NAGPRA within the National Park System -- Park NAGPRA -- was assigned to the manager of the Archeology and Ethnography Program. We believe that this reorganization of responsibilities should lessen concerns that have been expressed.

In addition to the park and general NAGPRA functions, a special project involving the ancient remains found in Kennewick, Washington was underway prior to the November 1999 direction from the Secretary's office. Substantial comments have been made concerning the Department's actions in the Kennewick case. We are glad to have a chance to provide some information related to this subject. In March 1998, the Secretary of the Interior and the Secretary of the Army entered into an agreement concerning the set of human remains found in Kennewick, Washington. The Secretary agreed to assist in the case by: (1) determining if the human remains found in the Columbia River near Kennewick, Washington, are Native American within the meaning of NAGPRA; and, (2) if these remains are found to be Native American, determine their disposition under the terms of the statute and its implementing regulations.

The remains had been recovered from the Columbia River in July and early August of 1996. Over 380 human bones were gathered over a period of several weeks by repeatedly wading in the water and picking up bones observed on the river bottom. It is inferred that the remains eroded from the riverbank near the area where they were found. These remains were recovered from an extremely disturbed context and a number of facts had to be established by examining and analyzing the remains carefully.

Since the Department of the Interior has become involved in this case, six face-to-face meetings have been held with representatives of the concerned Indian tribes to discuss with them the Department's plans and seek their advice and comments. The initial meetings were held in May and July 1998. At these meetings, tribal representatives expressed concern about handling and testing of the remains. Interior representatives agreed to design the initial investigation in stages that would first gather necessary information using non-destructive methods and techniques. Considerable information was obtained following non-destructive methods; however, in order to obtain sufficient chronological information, it was necessary to use small pieces of bone for radiocarbon (C-14) testing. This information was key in establishing that these remains should be considered "Native American" and therefore, NAGPRA would apply in this case.

A second stage of investigation is underway in the Kennewick case to attempt to determine whether the cultural affiliation of these remains can be determined and to recommend treatment of the remains. As part of this effort, Interior has decided to utilize DNA testing of additional small pieces of the skeleton. Because of the unique circumstances in this case, the DNA testing conducted on Kennewick Man does not have a precedential effect on other NAGPRA cases. In all of the activities undertaken by Interior in this matter, meetings with the concerned tribes have been undertaken as part of our planning and decision making.

I would like to share an example that highlights the successful collaboration that can occur under NAGPRA. In May 1999 after careful documentation, extensive consultation, and successful negotiations had occurred among the Jemez Pueblo, the National Park Service, the Peabody Museum of Archeology and Ethnology at Harvard University, the Peabody Museum of Archeology at Phillips Academy and several New Mexico museums, the remains of over 2,000 individuals and numerous culturally significant objects, culturally

affiliated with the Jemez were repatriated and reburied according to tribal customs at Pecos National Historical Park. At daybreak, more than 600 individuals escorted the truck carrying the boxed remains for the last mile into the park. Over 1,000 people including members from 12 tribes participated in the event. All parties involved with the repatriation were pleased with the results and the level of respect displayed during the negotiations. A portion of the documentation, consultation, and repatriation costs were funded by NAGPRA grants to the tribe and to involved museums.

The National Park Service is aware of the frustration faced by some tribes who are seeking to repatriate their culturally affiliated ancestors, but who have faced a delay in the process. In March 2000, the National Park Service provided to the general NAGPRA function emergency funding to begin to eliminate backlogs in the implementation of NAGPRA and to cover essential services for FY 2000 using existing staff and additional consultants.

In considering the backlog of actions needing attention, the National Park Service determined that the general NAGPRA function should use all possible resources towards reducing the backlog of Federal Register notices, particularly those notices for which a legitimate claim had been acknowledged. In addition, the newly hired staff is focusing on improvements to the administration of the Review Committee, writing new sections of regulations, ensuring the most effective use of information from the grants projects, and compiling information for improvements in the implementation of the law.

As part of the President's FY 2001 proposed budget, the Department of the Interior has requested a \$400,000 base increase to carry out the general NAGPRA implementation. If appropriated, these funds would be used to increase the permanent full-time National Park Service staff by 4 full time equivalents (FTEs) and 2 consultant positions to carry out the needed work. Positions that have been identified include a grants manager, a Federal Register Notice specialist, a civil penalties investigator, and a Review Committee liaison.

Certainly, those of us in the National Park Service working on all aspects of this important program are aware that tribes, Alaska Native villages and corporations, Native Hawaiian organizations, museums, and agencies have experienced some frustrations in implementing the law. We are taking steps to reduce these delays and reduce the backlog of public notices required before repatriation can occur. In addition, we are developing new sections of regulations to deal with particularly difficult situations, finalizing the civil penalties section of the regulations, and expanding the effectiveness and use of the results of grants projects.

NAGPRA is a law that attempts to right some of the wrongs regarding the treatment of Native American human remains and cultural objects, visited upon Indian tribes, Alaska Native villages and corporations, and Native Hawaiians in all periods of American history.

Certainly, Native American human remains must be treated with dignity and respect. In considering the legislation that became NAGPRA, Congress found that many agencies and museums had large numbers of Native American human remains and cultural items in their

collections. NAGPRA redresses the situation by requiring museums and agencies to make available for repatriation human remains and certain kinds of cultural items to lineal descendants or culturally affiliated Indian tribes, Alaska Native villages and corporations, or Native Hawaiian organizations.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions the committee might have.