

# Appendix C. SAMPLES OF TRIBAL RESPONSE LETTERS

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NAGPRA  
1990 P.L.#101-601

Therefore, the Hualapai Tribe is requesting further information from your agency/museum that can assist our project in determining priorities of reviewing collections. Our goals are to develop and establish a working relationship with your agency/museum and the consultation process to review of the available information.

The Repatriation Project to solicit concerns and Tribal Museum.

If you have any questions, please contact Loretta Jackson at (928) 426-1111. Thank you.

Sincerely,

Delbert Havatone, Chairman  
HUALAPAI TRIBAL

- attachments:  
1 copy Hualapai Tribe  
(Repatriation Project)  
1 copy Hualapai Tribe  
(Policy Statement)  
1 copy Havasupai Tribe  
(Policy Statement)

The Great Spirit created Man and Woman in his own image. In doing so, both were created as equals. Both depending on each other in order to survive. Great respect was shown for each other; in doing so, happiness and contentment was achieved then, as it should be now. The connecting of the Hair makes them one person; for happiness or contentment cannot be achieved without each other. The Canyons are represented by the purples in the middle ground, where the people were created. These canyons are Sacred, and should be so treated at all times. The Reservation is pictured to represent the land that is ours, treat it well.

Delbert Havatone  
Chairman



HUALAPAI NATION  
OFFICE OF THE CHAIRMAN  
P.O. Box 179 • Peach Springs, Arizona 86434 • (602) 769-2216

February 09, 1995

The Heard Museum  
Martin Sullivan, Director

22 East Monte Vista Road  
Phoenix, Arizona 85004-1480

Dear Martin Sullivan, Director:

The Hualapai Tribe has been contacted by federal agencies and museums from around the United States over the past two years regarding summaries and inventories of possible Hualapai/PAI ancestral human remains and sacred objects in compliance with the 1990 Public Law #101-601, the Native American Graves Protection and Repatriation Act (NAGPRA).

The Hualapai Tribe's Cultural Resources Program is authorized to carry out the responsibilities of the "Repatriation Project". The Project Director, Loretta Jackson oversees the project and ensures implementation of the goals and objectives. Susan Rocha, the Researcher for this project conducts and coordinates initial contacts with museums in research efforts. Ronald Susanyatame, assistant to the project director, will officiate actual repatriations of ancestral remains.

This document and attached resolutions contain official notice that the Hualapai Tribe & Havasuw Baaja (Havasupai Tribe) entered into an agreement that all PAI affiliated ancestral remains and objects will be of our concern. Currently the Hualapai Tribe is working under a Park Service Grant to conduct consultations with tribal elders within the Peach Springs community to scope the concerns and issues for possible future repatriations.

The Reservation is our heritage and the heritage of our children yet unborn. Be good to our land and it will continue to be good to us. The Sun is the symbol of life, without it nothing is possible - plants don't grow - there will be no life - nothing. The Sun also represents the dawn of the Hualapai people. Through hard work, determination and education, everything is possible and we are assured bigger and brighter days ahead. The Tracks in the middle represent the coyote and other animals which were here before us. The Green around the symbol are pine trees representing our name Hualapai - PEOPLE OF THE TALL PINES -

Louise Benson  
Vice Chairperson

Millard F. Rogers, Jr.  
November 9, 1993  
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- Recorded as Oneida.
- Recorded as Iroquois, found or acquired in Madison, Oneida, Chenango, Oswego, Lewis or Herkimer counties of New York.
- Acquired from Oneida Nation Members.
- Recorded as Iroquois with no further documentation.

Summaries and inventories in accordance with the following:

- \*\*Human Remains and
- \*\*Unassociated Funerary
- \*\*False Face masks
- \*\*Cornhusk masks
- \*\*Turtle shell rattles
- \*\*Gourd rattles
- \*\*Wampum strings
- \*\*Medicine bundles

The standard procedure is:

1. Summary or description of items by Oneida Officials
2. On-site review and photographing of items
3. Review of items by religious leaders
4. If necessary, review by a Oneida committee
5. Notification of material to be reviewed of material
6. Compliance with the Act
7. Necessary actions

If you need any information, please contact the Oneida Indian Nation of New York.

# ONEIDA INDIAN NATION



ONEIDA NATION TERRITORY, VIA ONEIDA, NEW YORK  
November 9, 1993

Mr. Millard F. Rogers  
Director  
Cincinnati Art Museum  
Eden Park  
Cincinnati, OH 45202-1596

Dear Mr. Rogers:

Thank you for your recent letter, which states that you may have materials in your collections relating to our Nation that are subject to the provisions of the Native American Graves Protection and Repatriation Act. As you requested, the names and addresses for the Nation's designated liaisons, and procedures for the consultation process are as follows:

Perry Ground, Museum Curator  
Shako:wi Cultural Center  
Oneida Indian Nation  
Box 1  
Oneida, NY 13421  
(315)-363-1424

Liza Obomsawin  
Oneida Indian Nation  
223 Genesee Street  
Oneida, NY 13421  
(315)-361-6300

These individuals should be contacted directly regarding summaries, inventories, and consultations. Further, they will be responsible for contacting any lineal descendants of individuals (identified by the Museums and other Federal Agencies) whose remains, funerary objects or sacred objects are included in a summary or inventory. Also, after an initial review of a Museum or Federal Agency holding collections of Oneida items or remains, they will contact traditional religious leaders for consultation on that collection if necessary.

The Oneida Indian nation of New York will be working in conjunction with other members of the Haudenosaunee (Iroquois) Confederacy but retains the right to act independently of any individual or committee appointed. Therefore, the Oneida Nation would request that Museums and Federal Agencies directly contact the designated liaisons with summaries and inventories that include objects or remains:

**Business Address**  
PO Box 1 • Vernon, NY 13476  
(315) 829-3090 • Fax (315) 829-3141

*Appendix D.* NAGPRA REVIEW COMMITTEE

**PURPOSE:** Monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7 of the Native American Indian Graves Protection and Repatriation Act.

**AUTHORITY:** Section 8 of Public law 101-601, November 16, 1990.

**TERMS:** Three or Six years

MEMBER	TERM EXPIRES	NOMINATING SOURCE
DR. JAMES BRADLEY Archlink 55 Park Street Charlestown, Massachusetts 02129 Tel.: (508) 749-4490 Fax: (508) 749-4495	June, 2003	American Association of Museums
DR. ARMAND MINTHORN, CHAIR Confederated Tribes of the Umatilla Indian Reservation P.O. Box 638 Pendleton, OR 97801 Tel.: (541) 276-3165 Fax: (541) 276-3095 <i>traditional religious leader</i>	June, 2003	Confederated Tribes of the Umatilla Indian Reservation
DR. GARRICK BAILEY Department of Anthropology University of Tulsa 600 South College Tulsa, Oklahoma 74104 Tel: (918) 631-3026 Fax: (918) 631-2540	November, 2006	American Association of Museums
DR. JOHN O'SHEA Museum of Anthropology University of Michigan Ann Arbor, MI 48109-1079 Tel.: (313) 763-5759 Fax: (313) 763-763-7783 email: joshea@umich.edu	June, 2003	Society for American Archaeology, American Museum of Natural History, LA County Natural History Museum, Peabody Museum, Harvard University, P.A. Hearst Museum, UC Berkeley
MR. LAWRENCE H. HART Route 1, Box 3130 Clinton, OK 73601 Tel.: (405) 323-5320 Fax: (405) 323-6225 <i>traditional religious leader</i>	September, 2001	Cheyenne and Arapaho Tribes Forest County Potawatomi Community
MS. VERA K. METCALF Bering Straits Foundation 157 Seppala Foundation P.O. Box 1008 Nome, Alaska 99762 Tel: (907) 443-2985 Fax: (907) 443-2985	June, 2004	Concurrence of six committee members
DR. ROSITA WORL Sealaska Heritage Institute One Sealaska Plaza, Suite 201 Juneau, Alaska 99801 Tel: (907) 463-4844 Fax: (907) 586-9293	November, 2006	Huna Heritage Foundation

## *Appendix E.*

# EXCERPTS FROM RECLAIMED HERITAGE: REPATRIATION OPTIONS AND PROCESS UNDER NAGPRA

by ROSITA WORL (*Tlingit*)

THERE IS NO HISTORICAL MODEL on which Indian Peoples might draw to initiate the repatriation process and to re-integrate sacred and cultural objects into their societies. The primary legal guides for these complex tasks are NAGPRA and the repatriation policies and procedures adopted by the National Museum of the American Indian (NMAI) and the National Museum of Natural History (NMNH). Tribal members can be informed about NAGPRA through local tribal papers or newsletters. Some tribes have already initiated informational campaigns for their members, by outlining NAGPRA and its basic objectives in articles and reviews, and instituting informational meetings or workshops focusing on the legislation. Other tribes have elected to begin the process at the local or community level, followed by region-wide meetings.

### *To Repatriate or Not to Repatriate*

Decisions on repatriation vary among tribes. For example, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) adopted a policy to repatriate and re-inter all human remains, associated and unassociated funerary objects which have been identified as originating from lands within the CTUIR's boundaries. The Zuni, on the other hand, have concluded that they will not seek repatriation of human remains in museum collections, but they have taken the position that the remains may not be exhibited to the public.

The final disposition of repatriated objects may be a consideration for some tribes in determining whether they should pursue repatriation claims. A number of different options exist. Objects may be returned to religious leaders, to specific social groups, such as clans, for their traditional use, or to an individual or lineal descendant who can demonstrate legitimate claims to them. In these instances, the tribe assumes no further responsibility for the repatriated objects unless it should adopt legislation prohibiting the removal of cultural properties from its territorial jurisdiction. Tribes may also bury repatriated associated and unassociated funerary objects. This resolution may be difficult for some tribes who are no longer certain that their burial sites are secure from trespassers and "pot hunters." Should this be the case, it may be necessary to explore alterna-

tive measures to ensure the safety and protection of funerary objects. Some tribes, for example, may seek repatriation and elect to store their objects in a central repository or tribal museum. If a tribe does not have a museum, another possibility may be for the tribe to secure legal title to cultural properties as allowed under NAGPRA and then attempt to develop an agreement with a specific museum to place these objects within its care. Should tribes elect to store their repatriated objects in a safe and secure repository or a museum, they may wish to draw up stipulations to ensure that these institutions accommodate their needs and cultural practices.

Tribes who wish to ensure perpetual ownership of their cultural properties may wish to consider the adoption of a statute that expressly prohibits the removal and sale of sacred and cultural objects from tribal ownership. The Chilkat Indian Village of Klukwan adopted a tribal ordinance (Attachment A) that forbids the removal of significant cultural properties from the village without the permission of the tribal council. A recent tribal court decision involving attempts to sell clan objects upheld the right of the tribe to enforce this ordinance (Chilkat Indian Village, *IRA v. Michael R. Johnson, et al.* No 90-01).

### *Repatriation Committee*

Repatriation decisions are multiple and complex, and the tasks may involve considerable time commitments. Tribes may therefore wish to have a specific decision-making body—a sub-committee of the council, a separate committee or working group—to focus solely on repatriation issues. Tribal councils which include religious leaders in their membership may retain direct policy oversight if the tribe so desires. In any case, religious leaders or individuals who are intimately familiar with the tribe's religious ideologies and practices, as well as individuals who are knowledgeable about the broader traditions, values and customs of the tribe, are essential to the working unit and are able to analyze and define the role and function of objects within their cultural context. If a tribe has a museum, it will be helpful to have a museum-trained staff member on the working committee, as museums do not necessarily categorize objects in the same manner as Native American societies.

"This material was supported by the National Indian Policy Center at The George Washington University, Washington, DC, which is funded in part by grant award number 90NA1101/04 from the Administration for Native Americans, U.S. Department of Health and Human Services. Reprinted by permission."

For example, to guide the initial development of their work, a repatriation committee of Southeast Alaska Indians drafted a Mission Statement and identified broad goals. The statement and goals were then submitted at two region-wide meetings to the participants for their consideration and use in their local communities. The Mission Statement outlines a vision and basic tenets that other tribes may wish to consider as they formulate their repatriation policies and process (see Attachment B).

One of the primary functions of the repatriation committee and religious leaders will be to identify and to offer information that will prove that an object is a funerary object, a sacred object or an item of cultural patrimony. While funerary objects are fairly self-evident, the identification of sacred objects may be more complex. This task may be especially difficult for those tribes whose religions were suppressed, and where tribal custom deems the divulging of crucial information to be inappropriate or forbidden. Tribes and religious leaders will have the ultimate responsibility and decision in defining sacredness and the current need for the objects. There is no standard or uniform definition of "sacred" that can be universally applied to classify and identify sacred objects. Lawyers may assist in determining whether the statutory criteria to substantiate traditional religious significance and use in a religious ceremony are met. However, it cannot be over-emphasized that religious leaders will be the ultimate authority in defining "sacred."

The Confederated Tribes of the Umatilla Indian Reservation adopted a comprehensive Policy and Procedure Manual for the Repatriation of Ancestral Human Remains and Funerary Objects (Attachment C). Tribes may find their guideline a useful example in that it provides a model as to how tribes may elect to handle this component of NAGPRA. It also outlines how to respond to federal agencies relating to newly discovered human remains and funerary objects on federal lands.

### *Region-wide or Centralized Tribal Approach to Repatriation*

A number of tribes are comprised of sub-groups, such as clans or reservation-based social units, that may actually claim ownership or trusteeship of objects subject to repatriation. In the interest of cost-effectiveness and to ensure a greater number of successful returns without competing claims or formal protests from sub-units of a tribe, a region-wide or centralized repatriation approach or effort may be the most prudent method to implement NAGPRA. If the legitimate property holder and the governing council are not one and the same, the property holder may agree and request that the tribe or administrative body seek repatriation on its behalf. Traditional entities may not be equipped with the administrative capabilities to initiate and conduct the repatriation process. For example, the Douglas Indian Association (DIA), a tribal government in Southeast Alaska representing the Tlingit Indians of that area, has a standard resolution that they forward to museums stating they will initiate repatriation claims on behalf of their clans and clan houses. The DIA submitted a repatriation request on behalf of the Yanyeyidi Clan of the Taku

Tlingit. Its claim was published in the Federal Register on July 7, 1994. It also adopted a statute that states that within their jurisdiction traditional property laws shall govern the ownership of cultural properties.

### *Role of Traditional and Academic Scholars*

Museums and institutions holding objects subject to NAGPRA have the responsibility of reviewing and assessing repatriation requests and supporting evidence in compliance with the full mandate of NAGPRA. It can be assumed that museums and other institutions will vary in how vigorously they support or resist repatriation claims. Some museums have already demonstrated a cooperative and collaborative approach, while others have illustrated a less than enthusiastic response. It is in the best interest of tribes that museums initiate a careful review process to ensure that objects are returned to their legitimate owners. Museums are expected to utilize anthropologists and other experts and to draw from the body of scholarly and anthropological literature to assess repatriation claims.

Traditional leaders are assumed to have a broad understanding and knowledge of their religious and cultural practices, and they may be able to develop clear and cogent claims for repatriation of their objects. However, tribes should also be familiar with the scholarly material and information that museums will use to evaluate repatriation claims, for the ultimate burden of proof rests with tribal claimants.

Some tribes are fortunate in having members who are anthropologists or other scholars involved in the museum field. Such specialists are trained analytically and objectively to describe and document the significance of objects and their role and function in their culture, and to compile the supporting evidence and documentation according to NAGPRA requirements. In addition they are probably able to prepare reports on the tribe's religious system, social organization, and traditional property laws, all aids in substantiating repatriation claims for sacred objects or objects of cultural patrimony. Some tribes have developed collaborative relationships with anthropologists or other scholars who are recognized as academic experts regarding their culture and history; these outside specialists may also be able to assist with this process. NAGPRA clearly states that tribes have the authority to define sacredness, but sufficient evidence in support of the tribe's definition is needed to convince the museum officials who will be assessing repatriation requests.

Some tribes may see the value of employing academic experts to support their claims while others may be resistant to utilizing scholarly experts. Whatever the tribe decides on this matter, it will be asked to describe its religious ideologies and practices in some detail. Tribes may however request and ensure that the information they present to substantiate their claims be protected or kept confidential as their sacred and intellectual property. Whether or not tribes elect to use academic experts, they

must be assured that their requests meet the standards of reviews and assessments of museum officials or of other experts should a legal resolution be necessary.

### *Relationship With Museums*

Comfortable working relationships with museums holding tribal collections can ease the repatriation process, and the earlier these relationships are established the better for all concerned. Advising the museum of the repatriation process the tribe intends to implement and obtaining the museum's repatriation procedures and policies are good initial steps. Tribes and Native Hawaiian organizations that have had previous experience working with museums in reclaiming human remains and objects subject to repatriation offer the following advice gleaned from their experience: (1) it is important to identify the "decision-makers" within museums to maximize efficiency; (2) decisions made by museums are more useful when written and not limited to verbal communication; (3) clarity of meaning in verbal and written exchanges is essential to avoid any misunderstandings; (4) copies of major correspondence should also be sent to the NAGPRA Program Office at the National Park Service in Washington, D.C.

### *Internal Resolution of Disputes*

A Review Committee was created under NAGPRA primarily to facilitate the resolution of disputes. The Review Committee's findings are non-binding, but they are admissible in any court proceeding filed pursuant to NAGPRA. Tribes may choose to implement their own procedure for settling internal disputes or to submit such disputes to their tribal courts, rather than bringing them to an external body.

In order to avoid internal competing claims, the Central Council of the Tlingit and Haida Indian Tribes of Alaska established a "Tribal Register." The internal register is widely distributed among the Southeast Alaska tribes, organizations and members. It seeks to inform the various entities and clans when one of the tribes or tribal members is initiating a repatriation claim on behalf of a clan or tribal member. The intent is to avoid competing claims and to resolve those that do arise before going to an external body or to court.

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### *Attachment A.*

#### **CHILKAT INDIAN VILLAGE**

##### **ARTIFACTS ORDINANCE May 12, 1976**

No person shall enter onto the property of the Chilkat Indian Village for the purpose of buying, trading for, soliciting the purchase of, or otherwise seeking to arrange a removal of artifacts, clan crests, or other traditional Indian art work owned or held by members of the Chilkat Indian Village or kept within the boundaries of the real property owned by the Chilkat Indian Village, without first requesting and obtaining permission to do so from the Chilkat Indian Village Council.

No traditional Indian artifacts, clan crests, or other Indian art works of any kind may be removed from the Chilkat Indian Village without the prior notification of and approval by the Chilkat Indian Council.

### *Attachment B.*

#### **SOUTHEAST ALASKA INDIAN REPATRIATION STATEMENT AND GOALS**

##### **MISSION STATEMENT**

As one of the means to ensure the survival and enhancement of the traditional cultures of the Southeast Alaska Indians in perpetuity, the Southeast Indians—through our respective tribes or the Tlingit and Haida Central Council/Sealaska Corporation acting on behalf of tribes—shall seek the return and protection of all objects allowed under the provisions of the Native American Graves Protection and Repatriation Act for the rightful clans and owners under our own traditional laws.

##### **GOALS**

1. To ensure all Tribes understand NAGPRA.
2. To identify those Tribes (including the Tsimpshians of Metlakatla) who intend to pursue the repatriation of objects on behalf of the clans in their communities.
3. To develop a cooperative agreement between the Tlingit and Haida Central Council/Sealaska and the tribes to pursue the repatriation of objects under NAGPRA.
4. To delineate the respective roles of all the Southeast entities that will be involved in the implementation of NAGPRA.
5. To identify Clan leaders (shaadeihani) and/or Clan and House stewards (hitsaati).
6. To compile an inventory of sacred objects and objects of cultural patrimony.
7. To develop a statement of significance for each category of objects (i.e. masks, Chilkat Blankets, clan hats, etc.) that substantiates that they are sacred or objects of cultural patrimony to support the repatriation request.
8. To identify acceptable repositories where repatriated items can be held in trust if clan facilities are not available.
9. To pursue the formal adoption of legal and traditional means to ensure that these objects shall forever remain in the possession of the rightful owners.
10. To pursue funding to implement NAGPRA.

*Attachment C.*

**THE CONFEDERATED TRIBES OF THE  
UMATILLA INDIAN RESERVATION**

*Policy and Procedure Manual for the Repatriation of  
Ancestral Human Remains and Funerary Objects*

May 19, 1993 (revised July 6, 1994)

**INTRODUCTION:**

On November 16, 1990, President George Bush signed into law P.L. 101-601, the Native American Graves Protection and Repatriation Act (NAGPRA).

The NAGPRA requires all Federal agencies, all Museums which receive Federal funding and Universities to conduct summaries and inventories for the purpose of identifying all Native American human remains, associated and unassociated funerary objects, sacred objects and objects of cultural patrimony, for the ultimate purpose of returning such remains and objects to Indian Tribes for repatriation.

The NAGPRA also requires that these summaries and inventories be conducted in consultation with Indian Tribes. The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) have conducted previous repatriation activities. Since the passage of the NAGPRA, the CTUIR have developed an understanding that the NAGPRA has the potential to create a multitude of social, financial, legal and administrative threats to the CTUIR.

The historical fact that the CTUIR have never had a tradition of unearthing ancestral human remains, and due to the social, legal and political chronicles surrounding the passage of the NAGPRA, have both compelled the CTUIR to develop fundamental policies and procedures to guide the Board of Trustees in the decision-making process regarding the NAGPRA and repatriation activities. In response to the NAGPRA and the potential threats to the CTUIR, the following policies have been adopted by the Board of Trustees for use in the decision-making process for the NAGPRA and all repatriation activities involving the CTUIR.

**1. TRIBAL POLICY - AMERICAN INDIAN  
RELIGIOUS FREEDOM ACT**

On August 11, 1978, the Congress of the United States enacted Public Law 95-41 (92 Stat. 469), known as the "American Indian Religious Freedom Act", which provides "on or after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred

objects, and the freedom to worship through ceremonial and traditional rites." It is the policy of the CTUIR to support this act.

**2. TRIBAL POLICY - ACCESS TO SACRED SITES**

The Board of Trustees shall take such actions as it deems necessary to ensure that Tribal members are granted access to sacred sites.

**3. TRIBAL POLICY - PROTECTION OF INDIAN  
GRAVES**

Oregon Revised Statutes 97.740 through 97.760 provide for the protection of Indian graves. It is the policy of the CTUIR to support enforcement of this statute. ORS 97.750 provides:

(a) If such action is necessary to protect the burial from imminent destruction, and upon prior notification to the State Historic Preservation Office and to the appropriate Indian tribe in the vicinity of the intended action, a professional archaeologist may excavate a Native Indian cairn or grave and remove resource objects and human remains for subsequent re-interment under the supervision of the Indian tribes.

(b) Except as provided in subsection (1) of this section, any proposed excavation by a professional archaeologist of a Native Indian cairn or grave shall be initiated only after prior written notification to the State Historic Preservation Office and with the prior written consent of the appropriate Indian tribe in the vicinity of the intended action. Failure of a tribe to respond to a request for permission within 30 days of its mailing shall be deemed consent. All resource objects and human remains removed during such an excavation shall, following scientific study, be re-interred at the archaeologist's expense under the supervision of the Indian tribe.

(c) In order to determine the appropriate Indian tribe under this section and ORS 97.745, a professional archaeologist or other person shall consult with the Commission on Indian Services which shall designate the appropriate tribe.

(d) It is the intent of this Policy and Procedure Manual to provide a mechanism for expeditiously determining whether or not written consent for an excavation shall be given pursuant to ORS 97.750(2).

**4. PROCEDURES FOR OBTAINING CONSENT**

A request for consent to excavate pursuant to ORS 97.750 shall be presented to the Cultural Resources Protection Program (CRPP) of the Department of Natural Resources (DNR) for the CTUIR. The CRPP shall direct and coordinate appropriate representatives, employees and, or professionals under contract of the CTUIR to conduct an investigation of the matter and make a formal written report

to the CTUIR's Cultural Resources Commission within 20 days recommending whether or not to grant consent to the excavation, and if consent is granted, what, if any conditions should be imposed on the excavation. Such conditions shall include the option of the CTUIR to perform the excavation in full or in part and any other survey or preliminary work in full or in part, under contract with the requesting party.

#### **5. TRIBAL POLICY - NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT**

The Native American Graves Protection and Repatriation Act (NAGPRA) provides for the protection of Native American graves and for the return and repatriation of human remains, associated and unassociated funerary objects, sacred objects and objects of cultural patrimony. It is the policy of the CTUIR to support the enforcement, implementation and administration of the NAGPRA. Specific CTUIR policies regarding the NAGPRA are as follows:

(a) The Cultural Resources Commission of the CTUIR is vested with the authority to administer the provisions of the NAGPRA. The Cultural Resources Commission shall administer NAGPRA related issues using the NAGPRA and the regulations developed by the National Park Service as the planning instrument for the CTUIR on all NAGPRA related activities. The Cultural Resources Commission shall coordinate all repatriation activities with the Board of Trustees, the Office of General Council and the CRPP for the CTUIR.

(b) The CRPP shall assist the Cultural Resources Commission in developing administrative strategies regarding Tribal consultation with federal agencies and others, regarding the proper handling and disposition of human remains, associated and unassociated funerary objects, sacred objects and objects of cultural patrimony.

(c) The Cultural Resources Commission shall in consultation with the Board of Trustees, and the Tribal attorney, initiate administrative and or legal action to enforce the provisions of the NAGPRA.

(d) The Cultural Resources Commission with the assistance of the CRPP, shall identify Tribal and non-Tribal lands suitable for repatriation activities. Any lands so acquired shall be administered by the DNR.

(e) The Cultural Resources Commission is authorized and encouraged to negotiate memoranda of agreement with other tribes regarding protocol on repatriation activities. The Cultural Resources Commission is also authorized to negotiate memoranda of agreement with private landowners, local, state and federal agencies regarding the availability and suitability of setting-aside lands suitable for repatriation activities. The final authority to sign any such agreement rests with the Board of Trustees.

(f) It is a policy of the CTUIR to repatriate and reinter all human remains, associated and unassociated funerary objects which have been identified to have originated from ancestral burial sites within the CTUIR's ceded lands.

(g) It is a policy of the CTUIR to require all federal agencies, museums, universities and colleges, and or any other entity, public or private, to comply with the provisions of the NAGPRA. All human remains, sacred objects, associated and unassociated funerary objects and objects or cultural patrimony must be documented in a summary or in an inventory in conjunction with the repatriation of any such human remains or objects. The CTUIR will not accept any human remains or objects for repatriation without documentation.

(h) It is a policy of the CTUIR to solicit full participation of the General Council in all NAGPRA related issues.

#### **6. STANDARDS AND PROCEDURES FOR THE DISCOVERY AND HANDLING OF ANCESTRAL HUMAN REMAINS**

(a) Applicability:

The procedures describe the necessary steps to be followed in the discovery and subsequent handling of ancestral human remains found within the CTUIR's ceded lands or lands within the possessory and usage area of the Cayuse, Walla Walla and Umatilla Tribes. The intent of these procedures is to ensure that such remains are treated with dignity at all times and, when applicable, are accorded appropriate handling as specified by a Tribal representative.

As a guiding principle, the CTUIR recognize and reaffirm the belief that Native American ancestral human remains hold paramount religious significance to many contemporary Sahaptin-speaking peoples of the Columbia Plateau. To better protect and enhance our traditional cultural values, the CTUIR establish the following policies:

(1) All encountered human remains are to be treated as Native American until available evidence indicates otherwise.

(2) Preference shall be given to the preservation of ancestral human remains "in-situ".

(3) The repatriation of ancestral human remains will occur as expeditiously as possible and in the same location whence the remains came.

Preservation in situ is not always feasible, therefore alternative protective measures must be implemented and carded out in a manner consistent with the recommendations of the CTUIR. Given the complexity of each potential discovery, ample opportunity must be given to the CTUIR to participate in or oversee any identification or removal procedure immediately thereafter from the time of discovery.

(b) Procedures regarding the Discovery of Human Remains

(1) All suspected in-situ human remains and or burials that have been exposed as a result of adverse impact or disturbance, must be reported immediately to the Cultural Resources Commission, the Board of Trustees, the Umatilla Tribal Police Department, the Oregon State Police and the appropriate Medical Examiners Office by the CRPP. If the discovery occurs on state or federal lands, a detailed letter or report from the agency with administrative jurisdiction over such lands shall be requested.

(2) In the event that suspected remains are endangered due to adverse impacts or other occurrences, then interim protective measures shall be developed and implemented.

(3) The Cultural Resources Commission and the Board of Trustees shall be notified by the CRPP regarding opportunities to inspect any burial site and ancestral human remains.

(4) Coordinated efforts to inspect burial sites and or ancestral human remains, should include members of the Board of Trustees, members of the Cultural Resources Commission, appropriate law enforcement personnel, land managers, archaeologist, and or anthropologist, and CTUIR cultural resources staff. The CRPP shall ensure that all law enforcement agencies with jurisdiction and the appropriate Medical Examiner are informed of any planned inspection of a burial site.

(5) Burial inspections shall determine if the skeletal remains are human, and if human, if the remains are modern or ancient. Burial inspection procedures shall be limited to non-destructive observational analysis by a qualified physical anthropologist. The inspection procedure will terminate if the remains are determined to be of modern origin, and possibly under the jurisdiction of a law enforcement agency. The inspection team shall also determine evidence of desecration or violations of applicable statutes such as the NAGPRA or the Archeological Resources Protection Act (ARPA). If there is evidence of NAGPRA or ARPA violations, the team shall thoroughly document the violation using the best available investigative techniques.

(6) If the discovery is determined not to be within the jurisdiction of law enforcement, then the inspection team shall determine, using the best available evidence, if the human remains are Native American or non-Native American in origin. The inspection procedure will terminate if the inspection team determines that the remains are non-Native American. If the inspection team deter-

mines that the remains are of Native American origin, the inspection team shall initiate interim measures to secure the site until a formal plan is developed by the Cultural Resources Commission and the CRPP.

(7) No parts of human remains, including associated (or unassociated) funerary objects or artifacts, shall be handled, removed, collected or photographed without direct supervision and approval of the CRPP or as otherwise authorized in writing by the Cultural Resources Commission or the Board of Trustees.

(8) If human remains and or burials are discovered in-situ during the course of any ground disturbing activity, the activity is to be halted until an on-site inspection is completed.

(9) If planned construction and or ground disturbing activities is such that destruction of the exposed remains is imminent, emergency removal and exhumation procedures shall be developed and implemented immediately.

(10) If ancestral human remains and or burials are discovered in-situ during the course of an archeological excavation, excavation activities shall cease and the Cultural Resources Commission shall be notified. Once the inspection team has concluded its inspection, and if conditions favor preservation in-situ, the Cultural Resources Commission shall develop a plan for reinterment. If conditions do not favor preservation in-situ, then the remains may be exhumed pursuant to a plan developed by the Cultural Resources Commission.

(c) Procedures for the Analysis of Human Remains

(1) Once any human remains are determined to be Native American, in all cases, the CTUIR reserve the right to reburial without scientific study, however when deemed appropriate, the CTUIR will allow human remains to undergo limited non-destructive observational analysis by a qualified physical anthropologist.

(2) In all cases, the CTUIR reserve the right to the re-burial of associated funerary objects without scientific study.

(3) In all cases, prior permission for scientific study shall be obtained in writing from the Cultural Resources Commission or the Board of Trustees.

(4) No methods of study shall be employed that diminishes the integrity of the remains or associated funerary objects.

(5) A reasonable effort shall be made to retain all organic materials contained in, or on the surface of any human bone or associated funerary object for the purposes of reburial.

(d) Procedures for the Reinterment of Human Remains

(1) The CTUIR reserve the right to reburial of any ancestral remains and or funerary objects without prior notification.

(2) The Cultural Resources Commission in conjunction with the CRPP shall upon notification that ancestral human remains have been discovered, develop the appropriate plan to reinter the human remains.

(3) The Cultural Resources Commission shall determine if there are any known relatives to the ancestral remains. If there are no known relatives, the Cultural Resources Commission shall promulgate a summary of the discovery, seeking participation of the General Council. The Cultural Resources Commission shall post the summary at the Tribal Office, the Longhouse, and the General Council Office. The summary shall include a brief description of the discovery and also invite members of the Board of Trustees, the General Council and traditional leaders from the community to meet with the Cultural Resources Commission in a worksession. The worksession shall focus on the details of the reinterment. A plan shall be drafted by the CRPP at the conclusion of the worksession.

(4) Whenever possible, reinterment shall occur at the original location of discovery. All information regarding the existence of known burials should be safeguarded and not announced publicly.

(5) The CRPP shall provide the administrative support for Cultural Resources Commission activities.

## 7. DEFINITIONS

(1) "Adverse effect" means a reasonable likelihood of more than moderate adverse consequences for cultural resources in any given site or area, the determination of which is based on (1) the context of a proposed action or development; (2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence; (3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have a cumulatively significant impact; and (4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.

(2) "Ancestral burial site" or "Burial Site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which there was intentionally deposited, as part of the death rites or ceremonies of a culture, the remains of a deceased indi-

vidual or individuals. All Ancestral burial sites shall also be considered sacred sites and be defined as a "Protected site".

(3) "Ancestral human remains" or "Human Remains" means the physical remains, articulated or unarticulated bones and bone fragments, artifacts, and the surrounding soil matrix where decomposition has occurred of any deceased human remains that are reasonably believed to be of Native American, or any deceased human individual of historic or prehistoric origin that is known, or has been identified, through available evidence, as Native American.

(4) "Board of Trustees" means the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation or their successors.

(5) "Ceded area" means that area ceded to the United States by the Umatilla, Cayuse and Walla Walla Tribes in the Treaty of June 9, 1855.

(6) "Consultation" unless used otherwise in this Manual, means the formal, direct face-to-face contact with the CTUIR by any governmental agency or private entity. Such contact or "consultation" is for the specific purpose of seeking Tribal participation as required by Federal or State Statutes.

(7) "Cultural Resources Protection Program (CRPP)" means the program and staff of the Department of Natural Resources created to protect, preserve and enhance cultural resources important to the membership of the Confederated Tribes of the Umatilla Indian Reservation.

(8) "DNR" means the Department of Natural Resources for the Confederated Tribes of the Umatilla Indian Reservation.

(9) "Cultural Resources Studies" means actions conducted to determine if cultural resources are present in an area that would be affected by a proposed use or development. Cultural Resources Studies may include but not be limited to: archival research, surface surveys, subsurface testing, mitigation/data recovery and ethnographical/ethnohistoric research.

(10) "Cumulative Effects" means the combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(11) "Funerary objects" means any artifact or material -

(a) which was intentionally placed with a deceased individual, either at the time of burial or at some subsequent time thereafter, as part of the death rites or ceremonies of a culture, and

(b) which has been identified, through available evidence, as having been removed from a burial site.

(12) "General Council" means the entire membership of the Confederated Tribes of the Umatilla Indian Reservation

over the age of 18 years, or as otherwise defined by the Confederated Tribes Constitution and By-Laws.

(13) “Genetic descendent” means any person or persons known, or reliably assumed to have a relationship to a specified human individual or group of individuals.

(14) “Ground Disturbing Activity” means any activity that disturbs the surface of the ground, such as construction, digging, logging, farm practices on uncultivated soil, dredging, drilling, filling and mining.

(15) “Human remains” means the physical remains of any deceased human individual.

(16) “Indian” means, unless otherwise specified, a member of The Confederated Tribes of the Umatilla Indian Reservation, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person on the Reservation who is recognized by the community as an Indian, including a Canadian Indian or an Alaska native.

(17) “In situ” means any undisturbed intact human remains or portions thereof, including burial sites, in their original depositional setting at the time of burial. In situ shall also mean the undisturbed intact artifacts which form a part of an archaeological site.

(18) “Lineal Descendant” means any person(s), that can demonstrate lineal and/or familial descentance of a person or human remains, or objects which are subject to the NAGPRA. A lineal descendant may use charts, records, archival materials, documented oral histories, documented ethnographic information, and any other documentation which aids in establishing descentance.

(19) “Mitigation” means the use of any or all of the following actions: (1) Avoiding the impact altogether; (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected cultural resources and or environment; or (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(20) “Museum collections” means any private, local, state, or federal agency, including institutions of higher education which has control or possession of Tribal cultural resources.

(21) “Native American” has that same meaning given for “Indian”.

(22) “Native American Graves Protection and Repatriation Act” or NAGPRA has the same meaning as that within P.L. 101-601 (25 U.S.C. 3001-3013)

(23) “Objects of Cultural Patrimony” means an object having ongoing historical, traditional, or cultural importance central to the Tribal people who currently comprise the Umatilla, Cayuse and Walla Walla cultures, rather than property owned by an individual Tribal member, and which therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Umatilla, Cayuse, Walla Walla or any other tribe and such object shall have been considered inalienable by the Umatilla, Cayuse, or Walla Walla tribes at the time the object was separated from the Confederated Tribes.

(24) “Post-depositional disturbance” means any disturbance by natural or man-made processes that alters or degrades the integrity of a known or potential site.

(25) “Reburial” means the physical replacement of disinterred human remains and or funerary objects into the ground at its original location, or at other specified locations deemed appropriate by the Confederated Tribes.

(26) “Reinterment” means the ritual aspect of reburial that is conducted under strict cultural rules of practice by a traditional religious practitioner.

(27) “Repatriation” means the physical return of any cultural item or artifact, including human remains, to its place of origin.

(28) “Reservation” means all lands within the external boundaries of the Umatilla Indian Reservation of Oregon as defined by the Treaty of June 9, 1855.

(29) “Sacred Objects” means specific ceremonial objects which are needed by Tribal members for the practice of traditional Indian religions by present day adherents.

(30) “Undertaking” means any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resource(s) is located in the area of potential effects. For federal undertakings, the project, activity or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements (36 CFR 800.2(o)).