

May 27, 2009

Susan Dudley
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20503

Dear Ms. Dudley:

We are writing to express our concern regarding the Department of Interior/National Park Service proposed regulation, Native American Graves Protection and Repatriation Act Regulation – Disposition of Culturally Unidentifiable Human Remains (RIN 104-AD68), which we understand may be currently under final review by the Office of Management of Budget.

As home to leading university-based scientific collections and museums, we have been engaged in the development of these regulations for over 10 years and with the current draft which was published in October 2007. Along with many others, we provided detailed comments on the regulations and strongly objected to the expansive approach adopted by the Department of the Interior. While there was a wide spectrum of views on the regulations, our concern that draft regulations were unworkable was echoed in comments from many, including those in tribal communities. Ultimately, after significant discussion, the NAGPRA Review Committee recommended without dissent that the Department return to the drawing board, reconsider their proposal and republish the regulations again in draft form to allow for further comment on a modified approach. We understand that the Department has rejected this approach and is proceeding toward final publication.

With the regulation now at OMB, we have been concerned to learn that this regulation has been categorized as “nonsignificant” and therefore may not be given full review by OIRA. In addition we are concerned that DOI has indicated this regulation does not contain any “unfunded mandates.” We believe this is also incorrect, given the significant effort and resources we dedicate to meeting the requirements under the current rules – which we believe will be substantially increased by this new regulation, if its final form resembles the earlier draft.

We would encourage you to reconsider the classification of this regulation and provide it a fuller review. In this regard, we would be most interested in meeting with the appropriate officials to discuss our concerns further.

Sincerely,



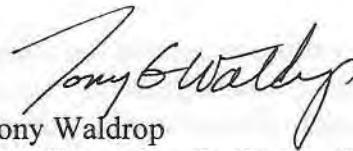
William Fash
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Judith A. Nowack
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Tony Waldrop
Vice Chancellor for Research and
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University of North Carolina, Chapel Hill



Steven V. W. Beckwith
Vice President for Research and Graduate Studies
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Dr Sherry Hutt
Manager, National NAGPRA Program
National Park Service
Docket No. 1024-AC84
1849 C Street, NW. (2253)
Washington, D.C. 20240

Dear Dr Hutt:

We write together in reference to the Native American Graves Protection and Repatriation Act (NAGPRA) draft regulations for the disposition of culturally unidentifiable human remains (43 CFR 10 Section 10.11 proposed rule Federal Register October 16, 2007 FR doc E7-20209). We appreciate the opportunity to be in dialogue about the process of NAGPRA.

We each maintain good faith efforts to implement NAGPRA and have worked together for nearly seventeen years since the law was passed. We acclaim respect as the stated cornerstone for the proposed rule. Respect is central to our mutual NAGPRA efforts. Also through this effort, we partner in mutual goals of education and research and continue to join together to develop new models for improving.

As you review a new regulation that would change the process, we want to bring to your attention some of the highlights for which the NAGPRA process has been responsible in our region. In particular, the Wampanoag Confederation exemplifies an effective model for joining together tribes of varying legal statuses in NAGPRA consultation. From the "Wampanoag Confederation Repatriation Project" (July 28, 1997):

The Confederacy was formed in January of 1996 specifically to provide a means for the Wampanoag Nation to address important issues concerning the concept of and acts of repatriation. Gatherings of other Wampanoag Clans, Bands, and Tribal representatives were convened to discover the appropriate territorial boundaries, spiritual, and political concerns amongst the Wampanoag Nation. The Wampanoag Confederacy has opened council with bordering Native Nations... . Our shared histories necessitate collaborative efforts in response to the same above-mentioned concerns.

The Wampanoag Confederation initially comprised one federally recognized tribe, Wampanoag Tribe of Gay Head (Aquinnah); and two non-federally recognized tribes, Mashpee Wampanoag Tribe, and Assonet Band, Wampanoag Nation. Today, with federal recognition of Mashpee Wampanoag Tribe, the constellation of legal statuses has shifted, but the Wampanoag Confederation repatriation efforts continue as previously. The Wampanoag Confederation model serves to give voice to non-federally recognized tribe or bands in a structured way. This model has been effective in our region, and we consider it a privilege to work together in this thoughtful manner. From Peabody Museum of Archaeology and Ethnology alone, we have consulted and completed existing requirements enabling repatriation of 247 human remains and 221 funerary objects from more than 20 locations as culturally affiliated to Wampanoag people.

NAGPRA has brought us closer together overall, and we move forward among the following ways:

At Harvard University-

- a field archaeology course on the earliest history of Indian education at Harvard Indian College,
- exhibition revision process to highlight the local region and our shared history,
- university museum to tribal museum partnership,
- grounding all work with indigenous people in a relationship to us as neighbors (Native American and non), and
- active student development with Native American students including from our region

At Phillips Academy-

- co-curation agreements,
- Native representation on advisory boards,
- visiting artists, and
- recruitment of Native American students, including from our region.

Thank you again for the opportunity to be in dialogue about the process of NAGPRA.

Respectfully,

Kenneth Alves
Assonet Band, Wampanoag Nation

John Peters, Jr.
Mashpee Wampanoag Tribe

Patricia Capone
Associate Curator
Peabody Museum of Archaeology and Ethnology
Harvard University

Malinda Blustain
Director
Robert S. Peabody Museum
Phillips Academy