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June 23, 2006

Chairman John Nau, III
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, Suite 809
Washington, DC 20004

Dear Chairman Nau:

The Zuni Tribe hereby submits the following comments to the Advisory Council on Historic Preservation's ("Advisory Council") Draft "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" as described in the March 14, 2006 Federal Register Notice, Vol. 71, No. 49, p. 13066 ("draft policy").

Goals of the policy statement

The Zuni Tribe supports the Advisory Council's recognition that the promulgation of federal statutes such as the Native American Graves Protection and Repatriation Act ("NAGPRA") warranted amending the 1988 Policy Statement Regarding Treatment of Human Remains and Grave Goods. It is our understanding that once this draft policy becomes finalized, it is not intended to displace NAGPRA or other federal statutes containing the same subject matter. Where the two are inconsistent and both applicable, the statute will take precedence. The Tribe feels that the draft Policy Statement states this point sufficiently in the section entitled "Relationship of Policy Statement to NAGPRA and other Federal, Tribal, State, or Local Laws."

Principles

The Zuni Tribe feels strongly that avoidance of burial sites, human remains, and funerary objects in project planning is an essential element of a sound policy. The Scope and Applicability section states, "The Federal agency should consider removal of the human remains or funerary objects only when these or other alternatives that leave the remains in place cannot be reasonably implemented." In the Discussion section of Principle 1, the draft policy states, "As a matter of practice, Federal agencies should avoid burial sites, human remains, and funerary objects as they carry out their undertakings." We recommend adding language that urges Federal agencies to avoid these as a matter of policy as well as practice. This added language would encourage

Federal agencies to adopt the avoidance principle in the policies that govern their work, not just adhere to the principle as a matter of practice.

The Zuni Tribe agrees with the concept contained in Principle 2. Burial sites, human remains, and funerary objects must be afforded the respect and dignity they deserve. Accordingly, we recommend the first sentence to be changed to “Participants in the Section 106 process, including Federal agencies, federal contractors, and private companies doing business on federal lands shall treat all burial sites, human remains, and funerary objects with dignity and respect. . .” Our experience has taught us that the majority of instances occur when non-federal contractors or private companies uncover burial sites, human remains, and funerary objects while doing business on federal lands. We understand that the Advisory Council’s function is to provide guidance to Federal agencies and not to non-federal entities. We also understand the Section 106 process obligates Federal agencies—and not necessarily non-federal entities—to consult with Indian tribes. However, we feel that the Advisory Council can advise Federal agencies to include this principle in permits, leases, licences and other agreements they have with non-federal entities.

The Zuni Tribe agrees with Principles 3 as written.

With regard to Principle 4, the Zuni Tribe would like certain language changed. Specifically, the term “be cognizant of their” should be changed to the term “recognize that they have.” The sentence would read, “Federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains, and associated funerary objects, and recognize that they have expertise in, and religious and cultural connection to, them.”

The Zuni Tribe feels that Principle 5 should be clarified to ensure that the consultation prescribed in this principle is done before human remains or funerary objects are disinterred. As written, we feel this point is not emphasized. We recommend the following: “When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully and according to procedures developed in consultation prior to disinterment.”

With regard to Principle 6, the Zuni Tribe feels strongly that the words “and appropriate documentation” should be taken out of the first sentence. It is the position of the Zuni Tribe that this language, as written, is unclear and could be interpreted to allow federal agencies responsible for making such decisions to document specifics of the burial site, human remains or funerary objects and disseminate that documentation in a manner that does not respect issues of privacy. In no way should the Secretary of Interior standards for documentation be found applicable to such documentation, if the ACHP decides to keep the words “and appropriate documentation” in the sentence. Finally, the Zuni Tribe strongly opposes a policy that involves storing human remains or funerary object remains in any place for any amount of time.

The Zuni Tribe agrees with Principles 7 and 8 as written.

As a general observation, the Zuni Tribe is encouraged by the statement regarding the tragedy of September 11, 2001, because it places the issue in a context that is more easily

understood and appreciated by mainstream Americans. For too long the issues of disturbing ancestors' burials and ensuring protection of funerary remains were seen only as Native American issues. To the extent more people, especially federal decision-makers, appreciate the sensitivity of burial issues and can relate to the issues, the more meaningful policies can be created and implemented.

The Zuni Tribe appreciates the opportunity to comment on the draft policy. If you have questions or require further information, please feel free to contact Jonathan Damp, Zuni Heritage and Historic Preservation Office, at (505) 782-4814.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arlen Quetawki, Sr.', with a long horizontal line extending to the right.

Arlen Quetawki, Sr.
Governor, Zuni Tribe