

THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD NATION

P.O. Box 278  
Pablo, Montana 59855  
(406) 275-2700  
FAX (406) 275-2806  
E-mail: csktcouncil@cskt.org



TRIBAL COUNCIL MEMBERS:

D. Fred Matt - Chairman  
Jami Hamel - Vice Chair  
Carole Lankford - Secretary  
Lloyd D. Irvine - Treasurer  
Mike Kenmille  
Mary Lelthand  
Steve Lozar  
Elmer "Sonny" Morigeau  
James Steele, Jr.  
Ron Trahan

Joseph E. Dupuis - Executive Secretary  
Vern L. Clairmont - Executive Treasurer  
Leon Bourdon - Sergeant-at-Arms

December 2, 2005

John L. Nau, III Chairman  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue N.W., Suite 809  
Washington DC 20004

Dear Mr. John L. Nau, III:

I am writing to inform you that Rosemary Caye is the Kootenai Native American Graves Protection and Repatriation Act (NAGPRA) Coordinator for the Confederated Salish and Kootenai Tribes. She is the authorized official for the Kootenai people to submit comments on the Advisory Council on Historic Preservation, Working Principles for The Treatment of Human Remains and Associated Funerary Objects.

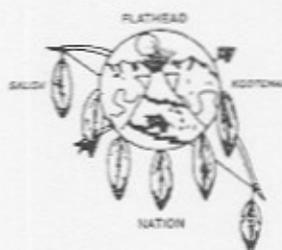
If you have any questions regarding Ms. Caye's comments you can reach her at the Kootenai Culture Committee, P. O. Box 155, Elmo, MT 59915, (406) 849-5541.

Sincerely,

CONFEDERATED SALISH AND KOOTENAI TRIBES

D. Fred Matt, Tribal Chairman  
Tribal Council

Cc: Rosemary Caye, Kootenai Culture Committee  
Marcia Pablo, Tribal Preservation Office



THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD NATION

P.O. Box 278  
Pablo, Montana 59855  
(406) 275-2700  
FAX (406) 275-2806  
E-mail: csktcouncil@cskt.org



TRIBAL COUNCIL MEMBERS:

D. Fred Matt - Chairman  
Jami Hamel - Vice Chair  
Carole Lankford - Secretary  
Lloyd D. Irvine - Treasurer  
Mike Kenmille  
Mary Lethand  
Steve Lozar  
Elmer "Sonny" Morigeau  
James Steele, Jr.  
Ron Trahan

Joseph E. Dupuis - Executive Secretary  
Vern L. Clairmont - Executive Treasurer  
Leon Bourdon - Sergeant-at-Arms

December 2, 2005

John L. Nau, III Chairman  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue N.W., Suite 809  
Washington DC 20004

Dear Mr. John L. Nau, III:

Kisuk Kyukikit, my name is Rosemary Caye and I am the Kootenai Native American Graves Protection and Repatriation Act (NAGPRA) Coordinator for the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, located in Montana.

I have reviewed the Policy Statement Regarding Treatment of Human Remains and Grave Goods adopted by the ACHP, on September 27, 1988, in Gallup, New Mexico; and the working principles. P.L. 101-601, Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations and regulatory authority are already in place for Federally Recognized Indian Tribes, including any Alaska Native village or corporation as defined in or established by the Alaska Native Claim settlement Act (43 U.S.C. 1601 et seq.) and Native Hawaiian Organizations to repatriate our ancestral human remains that are being disturbed through undertakings on Tribal, and Federal Land. NAGPRA also allows us to retrieve our objects from museums, federal agencies, and institutions of higher learning under the regulations. NAGPRA has jurisdiction over Working Principles 1, 3, 4, 5, and 6 and takes precedence over the ACHP Policy. Here are my comments on Principle 2 regarding the clarification of the intersection between Section 106 and other legal authorities; and my comments on the specific sections of NAGPRA that are already in place for the issues addressed in Principles 3,4,5, and 6.

**Principle 2:**

The intersection between the requirements of Section 106 and NAGPRA impacted by an undertaking should intersect with the NAGPRA regulations, under Section 10.3 Intentional Excavations and Section 10.4 Inadvertent discoveries.

After section 10.3 and 10.4 is completed the remaining regulations under NAGPRA is initiated and implemented: 10.5 Consultation, 10.6 Custody, 10.7 disposition, and Section 10.8 Summary, 10.9 Inventories, 10.10 Repatriation, 10.11 Disposition of culturally unidentifiable human remains (reserved), 10.12 Civil penalties, 10.13 Future Applicability, 10.14 Lineal descent and cultural affiliation, 10.15 Limitations and Remedies, 10.16 Review Committee, 10.17 Dispute resolution, Appendix A to Part 10 – Sample Summary, Appendix B to Part 10 – Sample Notice of Inventory Completion, 10.1 Purpose and Applicability 10.2 Definitions. Attached is the NPS National NAGPRA Flow Chart for Intentional Excavations and Inadvertent Discoveries, and Summaries, and Inventories, etc.

The policy statement needs to clarify the intersection between the requirements of Section 106, State burial laws and other applicable laws.

The intersection between the requirements for Section 106 and State burial laws, and other applicable laws, for undertakings need to be addressed on the State level for all of the States within the United States of America and they will need to consult with every ethnic group within the State boundaries to define the intersection for any undertakings of their ancestral human remains and associated funerary objects.

In addition the ACHP will need to consult with every Federally Recognized Indian Tribe to clarify the intersection with Section 106 for any burial laws for any undertaking pertaining to Federally Recognized Indian Tribes and any other applicable laws.

The policy statement needs to recognize that a Federal agency official under section 106 has a duty for the care of human remains and funerary objects.

The ACHP policy needs to recognize that a Federal agency and Federal official under Section 106, be required to have a moral obligation to carry out the duties to take care of the ancestral human remains and associated funerary objects for every ethnic group within the United States of America in an exceptional respectful manner and they should consult with them and adhere to their recommendation to take care of their ancestors and associated funerary objects through an undertaking.

NAGPRA regulations and the regulatory authority specifically state that all Federal Agencies and officials within the United States of America must comply with the regulations. Section 10.2 Definitions, 10.2 (a), states, "Who must comply with these regulations? (1) Federal Agency means any department, agency, or instrumentality of the United States."

They also need to adhere, consult and implement the Federally Recognized Indian Tribes, Alaskan Natives and Hawaiian organization, recommendations on how they want the Federal agency and Federal official to take care of their ancestral human remains and associated funerary objects if they are disturbed through an undertaking.

**Principles 3, 4, 5 and 6:**

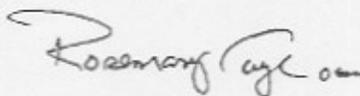
Following are the working principles 3, 4, 5, and 6 that are presently under the jurisdiction of NAGPRA regulations under the code of federal regulations, Title 43, Volume 1, Parts 1 to 999 sec. 10.1 thru 10.17.

- Principal 3 is addressed under the NAGPRA regulations, Section 10.3 and Section 10.4.
- Principal 4 is addressed under NAGPRA regulation, Section 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10, 11, 10.12, 10.14, 10.15, 10.16, and 10.17.
- Principal 5 is addressed under NAGPRA regulation under Section 10.3, 10.4.
- Principal 6 is addressed under the NAGPRA regulation under Section 10.3, 10.4, 10.5, and Section 10.1 – 10.17 for the fifth statement in principal 6.

Please keep me updated on the outcome of the written comments and the results from your consultation meetings regarding the ACHP consideration to revise the draft policy.

You can reach me at P. O. Box 278, Pablo, MT 59855, or contact me at (406) 849-5541.

Sincerely,



Rosemary Caye  
Kootenai NAGPRA Coordinator

Cc: D. Fred Matt, Chairman, CSKT Tribal Council  
Tribal Preservation Officer, Marcia Pablo