

Summary of Public Comments on the Advisory Council on Historic Preservation's Draft "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects"

Received on **June 16, 2006**  
At **Anchorage, Alaska**

Participants: **ACHP Member Julie King and ACHP Staff Monique Fordham**

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**Tribally Invited non-Tribal Attendee:**

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Lindgren: Said that she was concerned about when there is a Sec. 106 project, and even though they have built strong relationships with the federal agencies (USFS and F&W and SHPO office) they are consulted half-way through the process. Recently, a Katchmak(sp) village tradition so it's not identified as a Danina(sp) village on the shores of the Kenai River right where the Kenai Pen(sp) Campus of the Univ. of Alaska is and they are putting in a boardwalk and they didn't comply and the Tribe hasn't been notified. What more can be done if we respond pro-actively? The other issue in Alaska is that [some federal agencies?] only deal with the regional corporations because they're the landowner and who wants to deal with 13 regional corporations or over 200 tribes. She was concerned about the State of Alaska and the University of Alaska.

Fordham: Said that they made need to issue some sort of clarification on the tribal vs. regional corporations and which one the federal agencies are working.

Lindgren: Another issue that was raised was that back in 1995, they had gotten an NPS NAGPRA grant and they came up with instruction for identifying and defining objects of cultural patrimony and definitions and her understanding was that by doing this and sending to Dr. Tim McKeown that they were collecting these in Washington, DC, and any federal agency or anybody wanted to know the tribe's standpoint that would become the clearinghouse. But that hasn't been the case, has it?

King said that the National NAGPRA director is on the task force and she can contact her for you. NAGPRA is not 106 and they have to be notified separately.

Lindgren: Thinks that what should be added to the policy is that early in the planning, federal agencies – whoever receives federal funding – should be encouraged to understand that Indian tribes speak with one voice. We have a tribal chairman and she speaks for them, but if there's an

issue that comes up, then she brings it back to the tribe. There's a time element that they have to respond within 30 days of the letter and in Alaska, it takes longer than in the lower 48. You have to bear in mind that their executive director isn't authorized for that. If something is really critical to the tribe, they have to go to elders – different than governing Council. Sometimes there is a couple of months in between Council meetings to respond to these agencies. We came up with a policy that we respond and that we will be seeking additional advice from our elders hopefully within the 30 days period. It's important for people to understand how tribes are governed and how to reach consensus.

King: Said that they will take back to the task force that “we heard that 30 days is not workable.”

They went over the principles and the Federal Register notice.

Lindgren: Stated that they need to define what is “dignity and respect” for their elders.

McMahan: As part of the dignity and respect discussion, he stated that photography of remains can be disrespectful and that while it should be included as part of record, it should not be published or circulated without tribal permission. The field person takes photos for verification and then photos go to the tribe for safekeeping. There have been cases, for example, sometimes NAGPRA doesn't work well in Alaska – two he's had experience with. One, remains found in remote location on federal property and the state troopers have jurisdiction over any homicides disregarding land. Couple of cases where hikers discovered remains and federal arch says “leave them alone, don't touch them, we don't want to deal with NAGPRA.” And the state trooper says “we are obligated to examine them in case...” “One turned out to be a white person who was probably a minor and who was killed by his partner in the 1950s. The other was a young girl who was shot in the head -- partial skull so it race was indeterminable, and if they followed the archaeologists, those crimes would have gone undetected.” They advocate at least a basic examination.

Fordham: Curious to find out “if some agreements where federal agencies allow state law enforcement procedures to apply on federal lands. Do they have agreements to allow state to have jurisdiction?”

McMahan: Said that since Alaska is so large and so much is public land, he's heard that Denali National Park that there's a joint jurisdiction with the feds. Troopers have jurisdiction over homicides.

Lindgren: In principle 4, federally recognized tribes. She attended a meeting in Denver about how federal agencies and Indians feel and one of the things, was that there was a woman who does interpretation in California and the way the policies are stated in consulting with Indian tribes and recognizing there are dissident tribes. “Shall consult with Indian tribes,” should be restated, “shall conduct consultation with federally recognized Indian tribes.” Monique discussed the rare time that an agency may want to meet with a non-federally recognized tribe because they have some information – not on a government-to-government basis. Julie said the point on principle 4 is that there is the sense that tribal expertise does not get any standing and this was one way to describe that.

In the Definitions section: Lindgren stated that the definition and hierarchy of lineal descendants then tribe, etc. “Indian tribes” we don't define the hierarchy between the regional corporation, the village corporation and the federally-recognized tribe. Federal law does not establish that

hierarchy and it should be established. This definition says regional corporation has equal weight to federally-recognized tribe. This doesn't address the concerns in Alaska.