THE NELSON-ATKINS MUSEUM OF ART

KIKAAPOA - He who moves about
KICKAPOO TRIBE IN KANSAS

1107 Goldfinch Road • Horton, Kansas 66439
phone 785.486.2131 • fax 785.486.2801

National Park Service
0040011
JAN 14 2008
Office of the Director

Tuesday, January 08, 2008

Director
National Park Service
1849 C Street
Washington, DC 20240

Dear Director:

My name is Steve Cadue, and I am the Tribal Chairman of the Kickapoo Tribe in Kansas. I allege that The Nelson-Atkins Museum of Art, 4525 Oak Street, Kansas City, Missouri 64111, (816) 561-4000, has failed to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), and I am bringing this allegation to the attention of the Secretary of the Interior through you, and in writing pursuant to the NAGPRA regulations concerning civil penalties (43 C.F.R. 10.12).

I have read the definition of "receives Federal funds," at 43 C.F.R. 10.2(a)(3)(iii), and I believe that The Nelson-Atkins Museum of Art receives Federal funds. The facts that lead me to this belief are that in 2007, in 2006, in 2005 and in 2001 The Nelson-Atkins Museum of Art received Federal grant monies from the Institute of Museum and Library Services. The Institute of Museum and Library Services is, per its mission statement, 'the primary source of federal support for the nation's 122,000 libraries and 17,500 museums.'

I have read the definitions of "possession" and "control," at 43 C.F.R. 10.2(a)(3)(i) & (ii), as well as the definitions of the types of Native American cultural items covered by NAGPRA, at 43 C.F.R. 10.2 (d)(1)-(4), and I believe that The Nelson-Atkins Museum of Art has possession or control of a Kickapoo Prayer Stick, a sacred object, identified by elders of the Kickapoo Kennekuk Church.

The facts that lead me to this belief are that in on-going correspondence, beginning in March 2007, The Nelson-Atkins Museum of Art has repeatedly acknowledged its possession of the Kickapoo Prayer Stick. This correspondence includes but is not limited to a letter of June 11, 2007 in which Gaylord Torrence, Merrill Curator of American Indian Art, stated that out of respect for the members of the Kennekuk Church, he had removed the Kickapoo Prayer Stick from display. Further, on October 7, 2007, Estelle G. Sosland, Chair of the Board of Trustees of The Nelson-Atkins Museum of Art, at the

invitation of Charley Switch, Church Elder and Worship Leader, attended a worship service of the Kennekuk Church located on the Kickapoo of Kansas Indian reservation. At that time Ms. Sosland acknowledged possession of the Kickapoo Prayer Stick by The Nelson-Atkins Museum of Art.

I have read the definition of "failure to comply" at 43 C.F.R. 10.12(b)(1)(i-viii), and I believe that The Nelson-Atkins Museum of Art has failed to comply with specific provisions of NAGPRA because:

1. 43 C.F.R. 10.12(b)(iii) After November 16, 1995, or the date specified in an extension issued by the Secretary, whichever is later, The Nelson-Atkins Museum of Art has not completed inventories as required by the Act,

2. 43 C.F.R. 10.12(b)(iv) After May 16, 1996, or 6 months after completion of an inventory under an extension issued by the Secretary, whichever is later, The Nelson-Atkins Museum of Art has not notified culturally affiliated Indian tribes and Native Hawaiian organizations,

3. 43 C.F.R. 10.12(b)(v) The Nelson-Atkins Museum of Art refuses, absent any of the exemptions specified in §10.10(c) of this part, to repatriate human remains, funerary object, sacred object, or object of cultural patrimony to a lineal descendant or culturally affiliated Indian tribe or Native Hawaiian.

The facts that lead me to this belief are that the National Park Service of the U.S. Department of the Interior has no record of compliance regarding the required inventory by The Nelson-Atkins Museum of Art. Further, to date The Nelson-Atkins Museum of Art has refused to repatriate the Kickapoo Prayer Stick and this matter is not covered by any exemption under 43 C.F.R. 10.10(c).

Aside from the above facts, I have knowledge that written materials exist pertaining to the museum's receipt of Federal funds. I am providing you with all of the written materials to which I have access, i.e., a copy of a print out showing award of five (5) grants by the Institute of Museum and Library Services to The Nelson-Atkins Museum of Art, from 2001 to 2007.

Aside from the above facts, I have knowledge that written materials exist pertaining to the museum's possession or control of Native American cultural items. I am providing you with all the written materials to which I have access, i.e., articles written in the fall 2005 and spring 2007 issues of the Member Magazine of The Nelson-Atkins Museum of Art, as well as complete correspondence between the Kickapoo Tribe of Kansas and

Gaylord Torrence, Merrill Curator of American Indian Art and Estelle G. Sosland, Chair of the Board of Trustees of The Nelson-Atkins Museum of Art.

Aside from the above facts, I have knowledge that written materials exist pertaining to the museum's failure to comply with specific provisions of NAGPRA. I am providing you with all of the written materials to which I have access, i.e., correspondence between the Kickapoo Tribe of Kansas and Gaylord Torrence, Merrill Curator of American Indian Art.

I trust you will expeditiously forward this written allegation that The Nelson-Atkins Museum of Art has failed to comply with the requirements of NAGPRA to the enforcement coordinator in the National NAGPRA Program for consideration. Thank you for your kind attention to this matter.

Sincerely,

Steve Cadue, Chair
Kickapoo Tribe in Kansas

Enc.

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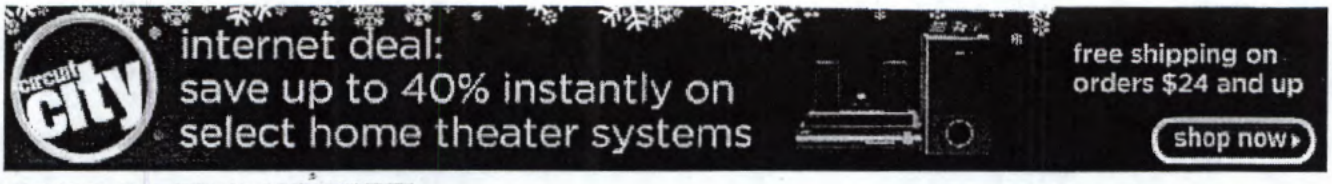

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Date: Thu, 20 Dec 2007 07:10:44 -0800 (PST)

From: "Amelia Holmes" <holmesameliac@yahoo.com> Add to Address Book Add Mobile Alert

Subject: Re: RE

To: "Gaylord Torrence" <gtorrence@nelson-atkins.org>

Mr. Torrence,

Has there been a decision made by the Board of Trustees. I know you are anxious to resolve this issue, as are we. Please advise at your earliest convenience.

Many thanks.

Amelia
--- Gaylord Torrence <gtorrence@nelson-atkins.org> wrote:

> Ms. Holmes - I've not heard from you for some time,
> and I'm wondering if
> you've had an opportunity to discuss my letter of 6
> November 2007 with
> members of the Kennekuk Church or Mr. Cadue. Should
> we at the
> Nelson-Atkins assume that the Church and the
> Kickapoo Tribe do not wish
> to respond to my inquiry? We want to bring this
> issue to resolution and
> look forward to hearing from you.
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> Thank you.
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>
> Gaylord Torrence
> Fred and Virginia Merrill Curator of American Indian
> Art
> The Nelson-Atkins Museum of Art
> 4525 Oak Street
> Kansas City, MO 64111
> gtorrence@nelson-atkins.org
> <mailto:gtorrence@nelson-atkins.org>
> 816-751-0427

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Amelia C. Holmes
Senior Staff Attorney
Kickapoo Tribe in Kansas
P.O. Box 110
Horton, Kansas 66439
(785) 486-2131 x 244
(785) 486-3125 FAX

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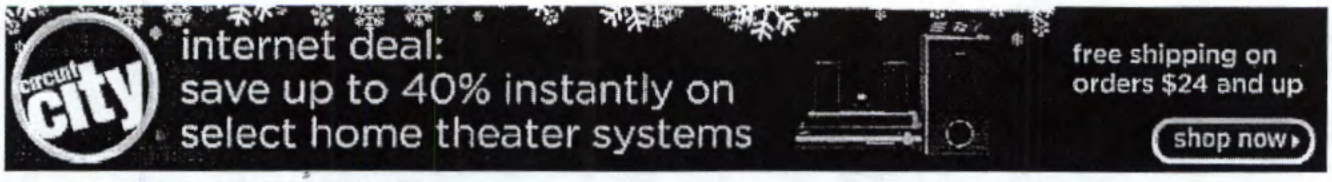

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Date: Mon, 7 Jan 2008 06:22:47 -0800 (PST)

From: "Amelia Holmes" <holmesameliac@yahoo.com> Add to Address Book Add Mobile Alert

Subject: Re: RE

To: "Gaylord Torrence" <gtorrence@nelson-atkins.org>

Mr. Torrence,

I have not heard from you in some time regarding this matter. Please advise as to the current status of the Kennekuk prayer stick and whether the Board of Trustees has consented to its return to the Kickapoo Tribe. I need a response as quickly as possible. Your quick response is greatly appreciated.

Warm regards,

Amelia C. Holmes
--- Gaylord Torrence <gtorrence@nelson-atkins.org> wrote:

> Ms. Holmes - I've not heard from you for some time,
> and I'm wondering if
> you've had an opportunity to discuss my letter of 6
> November 2007 with
> members of the Kennekuk Church or Mr. Cadue. Should
> we at the
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> look forward to hearing from you.
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> Thank you.
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>
> Gaylord Torrence
> Fred and Virginia Merrill Curator of American Indian
> Art
> The Nelson-Atkins Museum of Art
> 4525 Oak Street
> Kansas City, MO 64111
> gtorrence@nelson-atkins.org

> <mailto:gtorrence@nelson-atkins.org>
> 816-751-0427
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Amelia C. Holmes
Senior Staff Attorney
Kickapoo Tribe in Kansas
P.O. Box 110
Horton, Kansas 66439
(785) 486-2131 x 244
(785) 486-3125 FAX

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KICKAPOO TRIBE IN KANSAS

Damon K. Williams, General Counsel (Ext. 245)
Amelia C. Holmes, Tribal Attorney (Ext. 244)
P.O. Box 110
Horton, KS 66439
PH: 785-486-2131
Fax: 785-486-3125

FAX

To: Gaylord Torrence **From:** Amelia Holmes

Fax: 816-931-7208 **Date:** 11/5/07

Pages: 2

Re: Prayer Stick

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Gaylord -

I wanted to resend this letter with the correct date for your records & mine. I am in the process of answering your letter but am unclear what points were covered at your meeting. Could you be specific about what you need answered. We are anxious for the return of the stick.

Thank you very much.

Amelia Holmes

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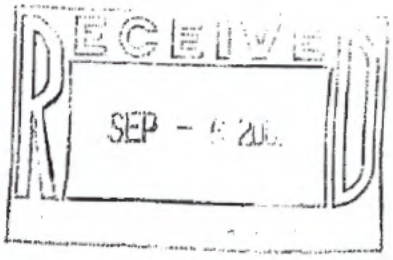
816.561.4000 Telephone
816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111



5 September 2007

Mr. Steve Cadue, Chairman
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Cadue:

Thank you for your letter of July 30th and your gracious invitation to Mr. Wilson and me to visit the Kickapoo homeland. We are sorry to have missed the powwow and look forward to another opportunity in the future.

As we proceed with our internal study regarding your request for the repatriation of the Prayer Stick and in preparing to bring this issue to the Board of Trustees, Mr. Wilson and I ask your help in providing further information about the Kennekuk Church and the use of prayer sticks by its members. The following are questions our Trustees are likely to ask and we want to be able to respond as fully as possible. You may be assured that we will convey the seriousness and sincerity of your request in our discussion with the Board.

First, could you comment on the manner in which the Church has maintained continuity and renewed itself through the years? Are new members of the Church presented with prayer sticks? Are prayer sticks being made today? If not, why? If the prayer stick in the collection of the Nelson-Atkins Museum of Art is returned to the Kickapoo tribe, what provisions will be made for its ongoing care to ensure its preservation for future generations? Finally, has the Kickapoo Nation sought the repatriation of prayer sticks from other institutions since the creation of NAGPRA in 1990?

We would be grateful if you could respond to these questions and for anything else you might provide that you consider relevant to the situation.

Respectfully,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

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816.751 1320 Telephone
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The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

Facsimile

Date: 10/23/2007

To: Amelia Holmes

Company: Kickapoo Tribe in Kansas

Recipient Fax: 785-486-3125

Recipient Phone: 785-486-2131

From: Gaylord Torrence

Department: American Indian Art

Subject: letters

No. of pages: 4 Including cover sheet

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The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

23 October 2007

Ms. Amelia Holmes
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Ms. Holmes:

As I mentioned in our conversation this morning, I am faxing today a copy of my letter to Mr. Cadue sent on 5 September 2007 requesting information relating to the Kickapoo Prayer Stick under discussion. At the time of our last meeting with members of the Kennekuk Church on 7 October, Mr. Cadue had not responded to our inquiry.

During the course of our meeting, the questions relating to the production of new prayer sticks and previous repatriation requests were addressed. The other questions were not. Again, we respectfully ask for a response to the remaining questions.

Also in our conversation, you questioned the tribal affiliation of Mrs. Martha Jackson, the person from whom Floyd Schultz originally obtained the Prayer Stick, now in our collection, in 1939. I am, therefore, also faxing a copy of a letter sent to Mr. Cadue by the Kickapoo Tribe's Bureau of Indian Affairs Superintendent listing Mrs. Martha Jackson's tribe as Kickapoo (Absentee). Schultz' catalogue entry cites Mrs. Jackson as Potawatomi, but this identification was almost certainly based on the fact that Mrs. Jackson was living on the Potawatomi reservation at the time, as she apparently was in 1938.

Sincerely,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

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The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

6 November 2007

Ms. Amelia Holmes
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Ms. Holmes:

In response to your fax of 11.5.2007, I am faxing to you a copy of my 9.5.2007 letter to Mr. Cadue, which contains the questions you reference. During our recent meeting with the members of the Kennekuk Church, nearly all of these questions were answered either directly or implicitly in the course of our discussion.

Not addressed, either by Mr. Cadue or by the members of the Church, is the following question: If the prayer stick in the collection of the Nelson-Atkins Museum of Art is returned to the Kennekuk Church of the Kickapoo Nation, what provisions will be made for its ongoing care to ensure its preservation for future generations?

I do believe the Board of Trustees will ask this question, and I would like to be able to provide an answer, whatever it may be.

Thank you for your help.

Sincerely,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

cc: Marc F. Wilson, Menefee D. and Mary Louise Blackwell Director/CEO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Horton Agency
908 First Avenue East
Horton, Kansas 66439-0031
Phone: 785 486-2161
Fax: 785 486-2515

July 10, 2007

Steve Cadue, Chairman
Kickapoo Tribe in Kansas
Post Office Box 271
Horton, Kansas 66439-0271

Dear Chairman Cadue:

This letter is in response to Ms. Nellie Cadue's telephone request today, July 10, 2007, for the Bureau of Indian Affairs' assistance in identifying the tribal affiliation of Ms. Martha Jackson.

A 1938 Information Sheet in our possession lists Ms. Jackson's tribe as Kickapoo (Absentee) whereas a Probate Order Determining Heirs dated April 27, 1955 lists Ms. Jackson as an Unallottee of the Citizen-Potawatomi Tribe.

I hope this information is helpful to you.

Thank You.

Sincerely,

Superintendent

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The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

Facsimile

Date: 10/22/2007

To: Amelia C. Holmes

Company: Kickapoo Tribe in Kansas

Recipient Fax: 785-486-2131

Recipient Phone: 785-486-3125

From: Gaylord Torrence

Department: American Indian Art

Subject: C. Switch letter

No. of pages: 2 Including cover sheet

19 October 2007

Mr. Charley Switch
1105 Goldfinch Road
Horton, KS 66439

Dear Mr. Switch,

I would like to thank you and your congregation for the generous hospitality you extended to my husband, Morton, and Mr. Gaylord Torrence of The Nelson-Atkins Museum of Art on Sunday, October 7th. The three of us were moved by your words, your prayers and songs. The dinner you shared with us spoke to me of the many fine cooks in your community. The three of us certainly enjoyed everything. Your gift to me, of the beautifully beaded cross and chain, will be a cherished example of your and the congregation's friendship and outreach to us.

Mr. Torrence and his department are in the final process of researching prayer sticks, their use by the Kickapoos, the specific history of the prayer stick in the Museum's collection, and how this information applies to NAGPRA guidelines and the question of repatriation. We, at the Museum, are very fortunate to have Mr. Torrence's considerable knowledge and respect for Native American beliefs and customs to guide us. The findings will be presented to me so that I may be as informed as possible when I take your request to my Board of Trustees. Please be assured that you will have our most thoughtful consideration in reply to your request.

Gratefully,

Estelle Sosland
Chair, Board of Trustees
The Nelson-Atkins Museum of Art

www.nelson-atkins.org

816.561.4000 Telephone
816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

October 17, 2007

Russell Bradley
Kickapoo Tribe of Kansas
P.O. Box 271
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Bradley:

Please find attached a summary of objects in our collection of North American Indian art acquired since our last summary which are identified only as being from the Prairie region of the United States. This letter and attached list are in compliance with the rule on the future applicability of NAGPRA (43 C.F.R. 10.13) which went into effect on April 20, 2007. My office will communicate with you in the near future. In the meantime, if you have any questions or concerns, please contact my assistant, Jennifer Byers, at 816-751-1320 or jbyers@nelson-atkins.org.

Sincerely,

Gaylord Torrence

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

Enclosure (1)

KICKAPOO LEGAL DEPARTMENT
P.O. Box 110 • Horton, Kansas 66439

Damon K. Williams, *General Counsel* • 785.486.2131 ext. 245
Amelia C. Holmes, *Senior Staff Attorney* • 785.486.2131 ext. 244
fax 785.486.3125

October 15, 2007

Gaylord Torrence
Curator
Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, MO 64111

SENT VIA FASCIMILE

Dear Mr. Torrence:

On behalf of the Kickapoo Tribe in Kansas and the Kennekuk Church, I want to thank you for attending the Church's services on the 7th of October. Please send our gratitude to Estelle and Morton as well. From our conversation on the 7th, I understand John Phillips will be deferring to outside counsel on this issue. Please forward this letter to the attorney handling this matter for the museum.

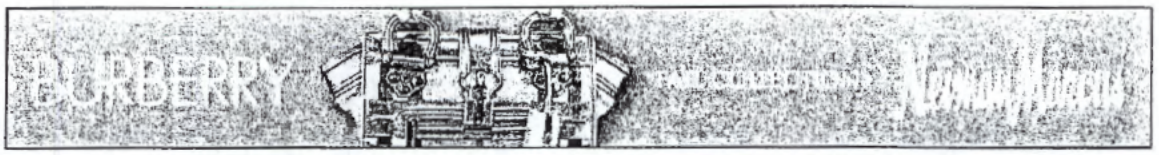
I understand the Board of Trustees of the Museum is meeting tonight and the issue of the Kennekuk Prayer Stick is on the meeting's agenda. At this time, we would ask for an immediate decision regarding the repatriation of the Kennekuk Prayer Stick to the Kickapoo Tribe in Kansas. We would like the Board of Trustees to understand the great religious and cultural importance the prayer stick has to both the Kennekuk Church and the Kickapoo Tribe. The prayer stick meets the definition of a sacred object under 25 U.S.C. 3001. The church has and continues to use the Prayer Stick in its "present day adherents." As you witnessed first hand, the religious leaders continue to use the Prayer Stick in worship.

We are once again respectfully requesting the Board of Trustees make a determination to repatriate the Kennekuk Prayer Stick to the Kickapoo Tribe in Kansas pursuant to 25 U.S.C. 3005 (a)(2). So you are aware, the Autry National Center in Los Angeles, California, who is currently in possession of a Kennekuk Prayer Stick has contacted us and has indicated they will repatriate that Prayer Stick to the Kickapoo Tribe. We truly hope we get the same, respectful response from your organization.

Again, thank you very much for your visit, please advise us immediately of the outcome of tonight's meeting.

Respectfully,

Amelia C. Holmes
Senior Staff Attorney



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RE: Meeting

From: **Gaylord Torrence** (gtorrence@nelson-atkins.org)
Sent: Thu 9/27/07 1:28 PM
To: Steve Cadue (b) (6) [redacted]
Cc: Estelle Sosland (ESosland@sosland.com); Marc Wilson (mwilson@nelson-atkins.org); Jennifer Byers (jbyers@nelson-atkins.org)

Steve – Mrs. Sosland and I will plan on coming on the 7th, but it may be impossible for us to get away early enough to accept the Church's gracious invitation to attend services. I will let you know as our plans develop, but know that we plan to come the 7th and not the 9th. Thank you for your help in arranging this.

Gaylord Torrence

From: Steve Cadue [mailto (b) (6) [redacted]]
Sent: Wednesday, September 26, 2007 10:44 AM
To: Gaylord Torrence
Subject: RE: Meeting

Gaylord: Thank you for the e-mail dated September 25th regarding a meeting of our hosting Ms. Estelle Sosland, Chairman of the Board of Trustees of the Nelson-Atkins Museum of Art. You requested that I speak to the tribal members who met with you and Marc Wilson on July 11 at the museum. I have spoken to the church members and they have suggested the following dates: October 7, 2007, which is on a Sunday Kennekuk Church service day. You are welcome to attend the church services beginning at 10:00 am and a meeting with Ms. Sosland could follow. If the date of October 7 is not convenient, a meeting could be held October 9, 2007, at the Kickapoo Nation Tribal headquarters.

Please let us know ASAP of a confimation of any of these dates. Please relay to Ms. Sosland our appreciation for the quick response to an issue of great importance to the Kennekuk Church members and our Kickapoo Nation community.

Subject: Meeting
Date: Tue, 25 Sep 2007 17:04:26 -0500
From: gtorrence@nelson-atkins.org
To: Steve Cadue (b)(6) [redacted]
CC: ESosland@sosland.com; mwilson@nelson-atkins.org; jbyers@nelson-atkins.org

Dear Mr. Cadue,

Estelle Sosland, Chairman of the Board of Trustees of the Nelson-Atkins Museum of Art, would like to meet with members of the Kennekuk Church to discuss the repatriation of the Prayer Stick, and I ask your help in making the necessary arrangements for a meeting. It would be best if we could arrange something within the next two weeks

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RE: Meeting

From: **Steve Cadue** ([redacted])
Sent: Wed 9/26/07 10:43 AM
To: Gaylord Torrence (gtorrence@nelson-atkins.org)

Gaylord: Thank you for the e-mail dated September 25th regarding a meeting of our hosting Ms. Estelle Sosland, Chairman of the Board of Trustees of the Nelson-Atkins Museum of Art.
You requested that I speak to the tribal members who met with you and Marc Wilson on July 11 at the museum. I have spoken to the church members and they have suggested the following dates: October 7, 2007, which is on a Sunday Kennekuk Church service day. You are welcome to attend the church services beginning at 10:00 am and a meeting with Ms. Sosland could follow. If the date of October 7 is not convenient, a meeting could be held October 9, 2007, at the Kickapoo Nation Tribal headquarters.

Please let us know ASAP of a confimation of any of these dates. Please relay to Ms. Sosland our appreciation for the quick response to an issue of great importance to the Kennekuk Church members and our Kickapoo Nation community.

Subject: Meeting
Date: Tue, 25 Sep 2007 17:04:26 -0500
From: gtorrence@nelson-atkins.org
To: Steve Cadue [redacted]
CC: ESosland@sosland.com; mwilson@nelson-atkins.org; jbyers@nelson-atkins.org

Dear Mr. Cadue,

Estelle Sosland, Chairman of the Board of Trustees of the Nelson-Atkins Museum of Art, would like to meet with members of the Kennekuk Church to discuss the repatriation of the Prayer Stick, and I ask your help in making the necessary arrangements for a meeting. It would be best if we could arrange something within the next two weeks, as Mrs. Sosland will be leaving the country for an extended period of time the third week of October. She is especially interested in talking with those who spoke during our meeting at the Museum, although she would welcome meeting any members of the Kickapoo community. Perhaps you could speak with the people I mentioned and determine some dates for us to consider traveling to Horton.

As a request for repatriation must ultimately be acted upon by the Board of Trustees of the Museum, I believe this meeting would be in everyone's interest. In that regard, I look forward to receiving a response to my letter of 5 September 2007.

Cordially,

Gaylord Torrence

—

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Meeting

From: **Gaylord Torrence** (gtorrence@nelson-atkins.org)

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Sent: Tue 9/25/07 5:01 PM

To: Steve Cadue (b)(6)

Cc: Estelle Sosland (ESosland@sosland.com); Marc Wilson (mwilson@nelson-atkins.org); Jennifer Byers (jbyers@nelson-atkins.org)

Dear Mr. Cadue,

Estelle Sosland, Chairman of the Board of Trustees of the Nelson-Atkins Museum of Art, would like to meet with members of the Kennekuk Church to discuss the repatriation of the Prayer Stick, and I ask your help in making the necessary arrangements for a meeting. It would be best if we could arrange something within the next two weeks, as Mrs. Sosland will be leaving the country for an extended period of time the third week of October. She is especially interested in talking with those who spoke during our meeting at the Museum, although she would welcome meeting any members of the Kickapoo community. Perhaps you could speak with the people I mentioned and determine some dates for us to consider traveling to Horton.

As a request for repatriation must ultimately be acted upon by the Board of Trustees of the Museum, I believe this meeting would be in everyone's interest. In that regard, I look forward to receiving a response to my letter of 5 September 2007.

Cordially,

Gaylord Torrence

—

Gaylord Torrence

Fred and Virginia Merrill Curator of American Indian Art

The Nelson-Atkins Museum of Art

4525 Oak Street

Kansas City, MO 64111

gtorrence@nelson-atkins.org

816-751-0427

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The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

5 September 2007

Mr. Steve Cadue, Chairman
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Cadue:

Thank you for your letter of July 30th and your gracious invitation to Mr. Wilson and me to visit the Kickapoo homeland. We are sorry to have missed the powwow and look forward to another opportunity in the future.

As we proceed with our internal study regarding your request for the repatriation of the Prayer Stick and in preparing to bring this issue to the Board of Trustees, Mr. Wilson and I ask your help in providing further information about the Kennekuk Church and the use of prayer sticks by its members. The following are questions our Trustees are likely to ask and we want to be able to respond as fully as possible. You may be assured that we will convey the seriousness and sincerity of your request in our discussion with the Board.

First, could you comment on the manner in which the Church has maintained continuity and renewed itself through the years? Are new members of the Church presented with prayer sticks? Are prayer sticks being made today? If not, why? If the prayer stick in the collection of the Nelson-Atkins Museum of Art is returned to the Kickapoo tribe, what provisions will be made for its ongoing care to ensure its preservation for future generations? Finally, has the Kickapoo Nation sought the repatriation of prayer sticks from other institutions since the creation of NAGPRA in 1990?

We would be grateful if you could respond to these questions and for anything else you might provide that you consider relevant to the situation.

Respectfully,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

KICKAPOO TRIBE IN KANSAS
KIKAAPOA - He who moves about

1107 Goldfinch Road • Horton, Kansas 66439
phone 785.486.2131 • fax 785.486.2801

Mr. Gaylord Torrence
Curator
The Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, Missouri 64111

July 11, 2007

Dear Mr. Torrence:

Thank you for your letter of 11 June 2007, responding to the Kickapoo Tribe's concern and interest in the sacred Prayer Stick used by the members of the Kennekuk Church. In a subsequent phone telephone conversation, you and I agreed to a meeting regarding the Kennekuk Prayer Stick to be held today at the Nelson-Atkins Museum of Art. We were also pleased to learn that Mr. Marc Wilson, Director will be participating in the meeting.

Our original Kickapoo homelands were in the Great Lakes region of America and we were gradually forced westward in treaty agreements with the United States of America. In the Treaty of 1832, we were moved to our present homeland and became surrounded by the State of Kansas when Kansas gained statehood in 1861. Treaty law provides the Kickapoo Tribe of Indians the right to practice tribal self-government and establish our own tribal laws. We are a sovereign Kickapoo Indian nation. Today we practice self-government adhering to our Kickapoo Tribal Constitution and are governed by a seven-member tribally elected tribal council. We establish our own tribal laws, operate a tribal court system having jurisdiction over both civil and criminal violations occurring on Kickapoo tribal lands. We operate our own Kickapoo Tribal Police and Kickapoo Tribal Fire Department. We own and operate our Kickapoo Tribal Water Treatment plant and water distribution system on the Kickapoo Reservation. We own and operate several tribal enterprises on the Kickapoo Reservation. We own and operate our K-12 Kickapoo Nation Tribal School and also operate a Kickapoo Headstart program. We also provide essential tribal government services to tribal members via a Kickapoo Tribal government with several tribal government offices; i.e, health and dental clinics, social services, water and sewer systems, land operations, bridge and roads, tribal farm, senior citizens program, education services, etc.

We are proud of our accomplishments in our struggle against centuries of extreme and overt hostility by the dominant society. We understand the value of hard work and we are determined to prevail in the face of frequent challenges fostered by a hostile dominant society. Our Kickapoo Tribal government system is uniquely different as is our cultural, societal and religious practices. It is our faith and our cultural teachings that have

enabled us to endure all these centuries. Prayers guide us and our faith is intertwined with the goals of Kickapoo Indian Self-Determination.

As our traditional religious practices have been persecuted and our way of life continually threatened, we have remained vigilant against discrimination of our Native American religions and the desecration of our traditions. The Kennekuk Church religion is one of the traditional faiths practiced by our Indian people. Kennekuk Church members use the sacred Prayer Stick in prayer. Many of our people are Kennekuk churchgoers and those who have attended a Kennekuk Church religious ceremony because of familial ties or friendship with a Kennekuk church member, recognize the sacred belief in the Kennekuk Prayer Stick.

In your letter of ll June 2007, you informed the Kickapoo Tribe that the Kennekuk Prayer Stick had been removed from display. We support this decision and we are grateful to the Nelson-Atkins Museum of Art for its quick action. The Kickapoo Tribe now solemnly and respectfully requests that the sacred Kennekuk Prayer Stick be returned to the practicing members of the Kennekuk Church. The Nelson-Atkins Museum of Art's return of the sacred Prayer Stick to the Kennekuk Church will exemplify the Board of Trustees' compassion and the board's support of the Kennekuk Church members will strengthen the human fabric of the of the Kickapoo Nation. Thank you for your consideration of our request of this very sensitive issue for our Kickapoo people. We shall pray for the return of the Kennekuk Prayer Stick.

Respectfully,

Steve Cadue
Tribal Chairman

PRAIRIE BAND POTAWATOMI NATION
ENROLLMENT DEPARTMENT

16281 Q ROAD
MAYETTA, KANSAS 66509
(785) 966-3934 or (785) 966-3914 Fax (785) 966-3917

July 10, 2007

To Whom It May Concern:

This is a verification of enrollment memo for Martha Jackson. I have checked through our data base and all of our other files, including our deceased files and find no one by the name of Martha Jackson enrolled here with the Prairie Band Potawatomi Tribe.

Respectfully,

Arlene Lingo
Enrollment Administrator

Prairie Band Potawatomi Nation
Government Center

July 10, 2007

Mr. Gaylord Torrence
The Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, MO 64111
(816) 561-4000

Dear Mr. Torrence:

On behalf of the Prairie Band Potawatomi Nation I am corresponding in regards to the Prayer Stick that is inscribed E89A of which is in the collection of the Nelson-Atkins Museum of Art.

As stated in your letter dated June 29, 2007, addressed to Ms. Amelia Holmes, the Prairie Band Potawatomi Nation agrees that the aforementioned Prayer Stick does embody the doctrine originated by Kennekuk, a Kickapoo, and therefore is identified as belonging to the Kickapoo Kennekuk Church.

As you have learned the Kennekuk Church is a known and practiced religion of the Kickapoo Tribe. Because of the distance and familial ties between the Prairie Band Potawatomi and the Kickapoo some members of the Kennekuk Church were Potawatomi, however, and is not and has never been a recognized religion of our tribe.

In addition, Ms. Martha Jackson is not an enrolled member of the Prairie Band Potawatomi Nation.

Because the religion is specific to the Kickapoo Tribe, there is no known Potawatomi Kennekuk Prayer Stick.

The Prairie Band Potawatomi Nation supports the return of the Prayer Stick to our well respected neighbors, the Kickapoo Tribe in Kansas.

If the Prairie Band Potawatomi Nation can be of any further assistance please contact me at (785) 966-4000.

Respectfully yours,

Rey Kitchkumme
Vice-Chairman
Prairie Band Potawatomi Nation

cc: PBPN Tribal Council, Kennekuk Church

www.nelson-atkins.org

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816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

5 July 2007

Ms. Amelia Holmes
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Ms. Holmes:

Enclosed are 2 issues of the Nelson-Atkins Member Magazine. The first features an article on the origin of the museum's new American Indian department, and the most recent discusses the planned gallery renovation and installation. I thought they would provide you with some useful background information prior to our meeting on the 11th.

I look forward to seeing you at that time.

Sincerely,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

www.nelson-atkins.org

816.561.4000 Telephone
816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

29 June 2007

Ms. Amelia Holmes
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Ms. Holmes:

In response to your inquiry regarding the provenance of the Prayer Stick in the Museum's collection, I am able to provide the following information. The Prayer Stick was originally acquired in 1939 from Mrs. Martha Jackson, a Potawatomi woman, presumably on the Prairie Potawatomi Reservation, Kansas, by Floyd Schultz.

Schultz, a Clay Center businessman and civic leader, was also a recognized amateur archeologist and ethnologist. (For an informative biography of Schultz, see Marvin F. Hawley, "Floyd Schultz: An Early Amateur Anthropologist in Kansas" in *The Kansas Anthropologist*, 12(2), 1991, pp. 1-10.) He began visiting the Prairie Potawatomi Reservation in the 1920's to observe, make notes, collect objects and shoot film footage, all in an effort to document and preserve aspects of traditional Potawatomi culture. The principal body of this work extended from 1927 to 1941. Schultz and his wife were apparently regarded highly by the Potawatomi community as she was formally adopted into the Prairie Band in 1947.

The Prayer Stick now in the collection of the Nelson-Atkins Museum of Art was one of several collected by Schultz. Upon his death in 1951, it was apparently acquired by Pat Reed, a prominent trader from Lawrence, Kansas, who is known to have acquired some part of Schultz' collection and papers. Sometime during the early 1960s, Mr. Reed sold the Stick to Larry Frank of Arroyo Hondo, New Mexico.

Mr. Frank, now deceased, was a well-known scholar and collector of both American Indian and Spanish Colonial art. He was the award-winning author of four books, two in each field, which are regarded today as standard references. He recognized the great importance of the objects within his care, not only as beautiful works of art, but for their enduring historical and cultural significance. Although he was an art dealer by profession, there were numbers of objects in his personal collection, including the Prayer Stick, which he refused to sell even though he was presented with many opportunities over the years. It was his intent to place these selected works with major art museums, where they would be preserved for future generations and where they might serve an important educational function.

Because of the long personal friendship we shared and because he was familiar with the stature of the Nelson-Atkins and its commitment to the arts of Native peoples, Mr. Frank offered the Prayer Stick to the Museum in 2002 after caring for it for more than 35 years. He was also pleased to have the object return to the region of its origin, where it could be seen by our thousands of visitors, both Native American and non-Indian.

The key in establishing the aforementioned collection history of the Prayer Stick is the number inscribed on its reverse side, E89A. Throughout his extensive collecting, Floyd Schultz numbered the objects he acquired in accordance with standard museum practice and recorded these numbers and the corresponding collection documentation in a research file. His numbering is distinctive and easily recognizable, and I have seen a great many objects during my years of research in both public and private collections that bear his documentation. Consequently, I recognized the Prayer Stick as being collected and numbered by Schultz from the time I first saw it in Frank's home many years ago but, without Schultz' corresponding notes, had no knowledge of its specific history.

A few months after the Prayer Stick came to the Museum an unexpected event occurred. I discovered Floyd Schultz' original collection catalogue in the hands of a private party who had inherited a portion of Pat Reed's estate many years ago, including this remarkable notebook. The book contains 377 entries, which describe an even greater number of objects as sometimes more than one object appears under a single numerical heading. Recognizing its importance as a means of establishing the collection histories for numerous items in public and private collections, as well as the Nelson-Atkins' Prayer Stick, I purchased the catalogue with my own funds with the intent of donating it to the Museum's library archives. In comparing the number on the reverse side of the Prayer Stick with the corresponding entry in the book, I learned that Schultz acquired the object from Mrs. Jackson.

Although its documented Native American owner was Prairie Potawatomi, I decided to identify the Prayer Stick as Kickapoo on the gallery label for three reasons. First, I am not aware of any stylistic differences between the prayer sticks collected from the Kickapoo and those acquired from the Potawatomi. Next, these objects embody the doctrine originated by the prophet Kenekuk, a Kickapoo. Finally, prayer sticks are identified most strongly with the Kickapoo Nation and its history, and I felt it was important that the Kickapoo Tribe in Kansas be represented in our presentation of American Indian art. Therefore, the identification of the Prayer Stick as Kickapoo in the exhibit reflected considerations regarding the acknowledgement of the doctrine and its origin as embodied in the object, and was not intended to dispute or disregard the Potawatomi collection history.

I trust this information will be of interest.

Sincerely,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

cc: Marc F. Wilson, Menefee D. and Mary Louise Blackwell Director/CEO

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RECEIVED
JUN 14

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

11 June 2007

Mr. Steve Cadue, Chairman
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Cadue:

In response to your letter of 12 March 2007, I want to inform you that the Prayer Stick was immediately removed from display out of respect for the concerns of the members of the Kennekuk Church and pending an internal review of the issues surrounding the appropriateness of its display and its possible return to the Kickapoo tribe.

As a first step in addressing these issues and in accordance with NAGPRA guidelines, we would like the opportunity to meet with members of the Kennekuk Church or their recognized leaders, the tribal council and NAGPRA representative of the Kickapoo Tribe of Kansas, and yourself. It would be our purpose to discuss plans for the new American Indian display at the Nelson-Atkins Museum of Art and our desire to represent the Kickapoo and Prairie Potawatomi nations in the display. In addition, we would like to provide information concerning the Prayer Stick – our purpose in acquiring it and our commitment to its preservation; its importance to the North American Indian collection of the Museum; the documentation of the object with regard to tribe and family, which we possess; and the educational potential inherent in the presentation and proper interpretation of this important work of art.

I ask your assistance in arranging this meeting, and I wonder if we might talk in the near future as to the best way to proceed. Perhaps you could email me some times that you expect to be in your office and I will call. My email is: gtorrence@nelson-atkins.org

I want to mention, as well, that a few weeks before Easter I called Mr. Charlie Switch in response to a visitor comment card that he left with the Museum regarding the Prayer Stick. His remarks to me during our conversation were both informative and enlightening.

Cordially,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

cc: Marc F. Wilson, Menefee D. and Mary Louise Blackwell Director/CEO

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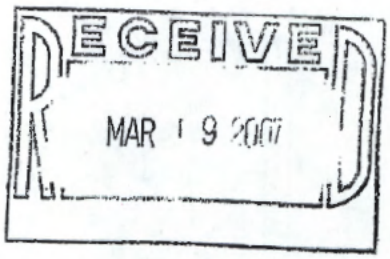
The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

15 March 2007



Mr. Steve Cadue, Chairman
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Cadue:

Thank you for your letter of 12 March 2007 concerning the display of the Kickapoo Prayer Stick. Marc Wilson, Director and CEO of The Nelson-Atkins Museum of Art, is currently out of town and asked that I respond in his absence.

Please assure the members of the Kennekuk Church that they have our goodwill and that we intend to respond to their concerns. In reference to your mention of the display of three Prayer Sticks currently on view, I would offer that only one is actually a Prayer Stick. The other two objects are Potawatomi Prescription Sticks, boards with incised drawings of plants used for medicinal purposes.

After Mr. Wilson returns we will begin our own investigation of the issue within the Museum, and you may expect to hear from us in the near future.

Cordially,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

cc: Marc F. Wilson, Menefee D. and Mary Louise Blackwell Director/CEO

KICKAPOO TRIBE
in Kansas

March 12, 2007

The Nelson-Atkins Museum of Art
Director
4525 Oak Street
Kansas City, MO 64111-1873

Dear Sir:

We are writing concerning the display of an artifact indigenous to a religion of the Kickapoo Tribe. Members of the tribe were made aware of the display and recently visited the museum to determine whether an actual artifact was on display.

The visit confirmed the display of three Prayer Sticks. Members of the Kennekuk Church, an active religious group, identified one of the Prayer Sticks as one being one utilized by them in practice of their religious activities.

The prayer sticks were traditionally buried with the deceased. As years passed, the Prayer Sticks became more valued as the Prayer Sticks were no longer being made. Thus, the tradition of burying them with the deceased discontinued to preserve the existence of the remaining prayer sticks.

Tribal members, who are members of the Kennekuk religion, have requested the assistance of the Tribe to contact the appropriate officials and make an official request to discontinue the display and return the Prayer Stick for preservation of the religious artifact.

Let us know if you have any questions or need more information.

Sincerely,

Steve Cadue, Chairman
Kickapoo Tribe in Kansas

cc: NAGPRA
Bureau of Indian Affairs

1107 Goldfinch Road • Horton, Kansas 66439 • *phone* 785-486-2131 • *fax* 785-486-2342

Nelson-Atkins Museum of Art

NAGPRA Summary - Prairie region

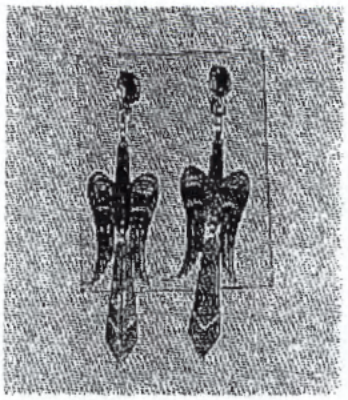
Silver
Jewelry

Plains
Prairie

()

Earrings
late 20th century
German silver

Bequest of Donald D. Jones
2001.3.126.A,B 6.2001.126.A,B
DJAT-115



Silver

Plains
Prairie

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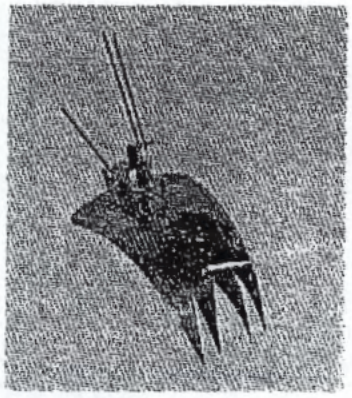
Roach Spreader
late 20th century
German silver

Bequest of Donald D. Jones
2001.3.127 6.2001.127
DJAT-115



Ceremonial Object

Potawatomi
Kickapoo
Prairie

()

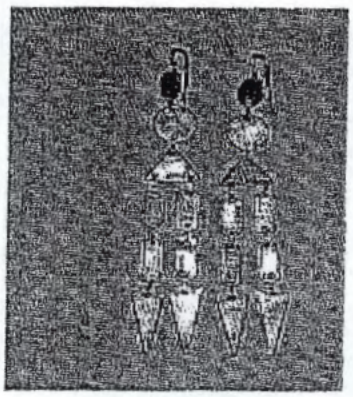
Prayer Stick
ca. 1825
Wood
Maximum: 1 1/2 in. (3.81 cm)
Overall: 1/4 x 6 3/4 in. (0.635 x 17.145 cm)
Purchase: the Donald D. Jones Fund for American Indian Art
2002.5.1 6.2002.1

Silver
Jewelry

Prairie

()

Earrings
ca. 1865
German silver
4 5/8 inches (11.75 cm)
Purchase: the Donald D. Jones Fund for American Indian Art
2004.28.A,B 36.2004.A,B



Sculpture

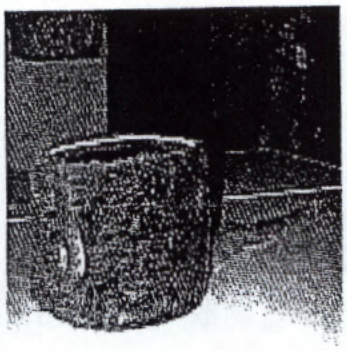
Prairie
Woodlands

()

Pipe Bowl
Early 19th century
Catlinite
2 1/8 x 2 7/8 x 1 inches (5.4 x 7.3 x 2.54 cm)
Gift of George Terasaki
2004.32.1 60.2004.1

Clothing

Osage
Prairie



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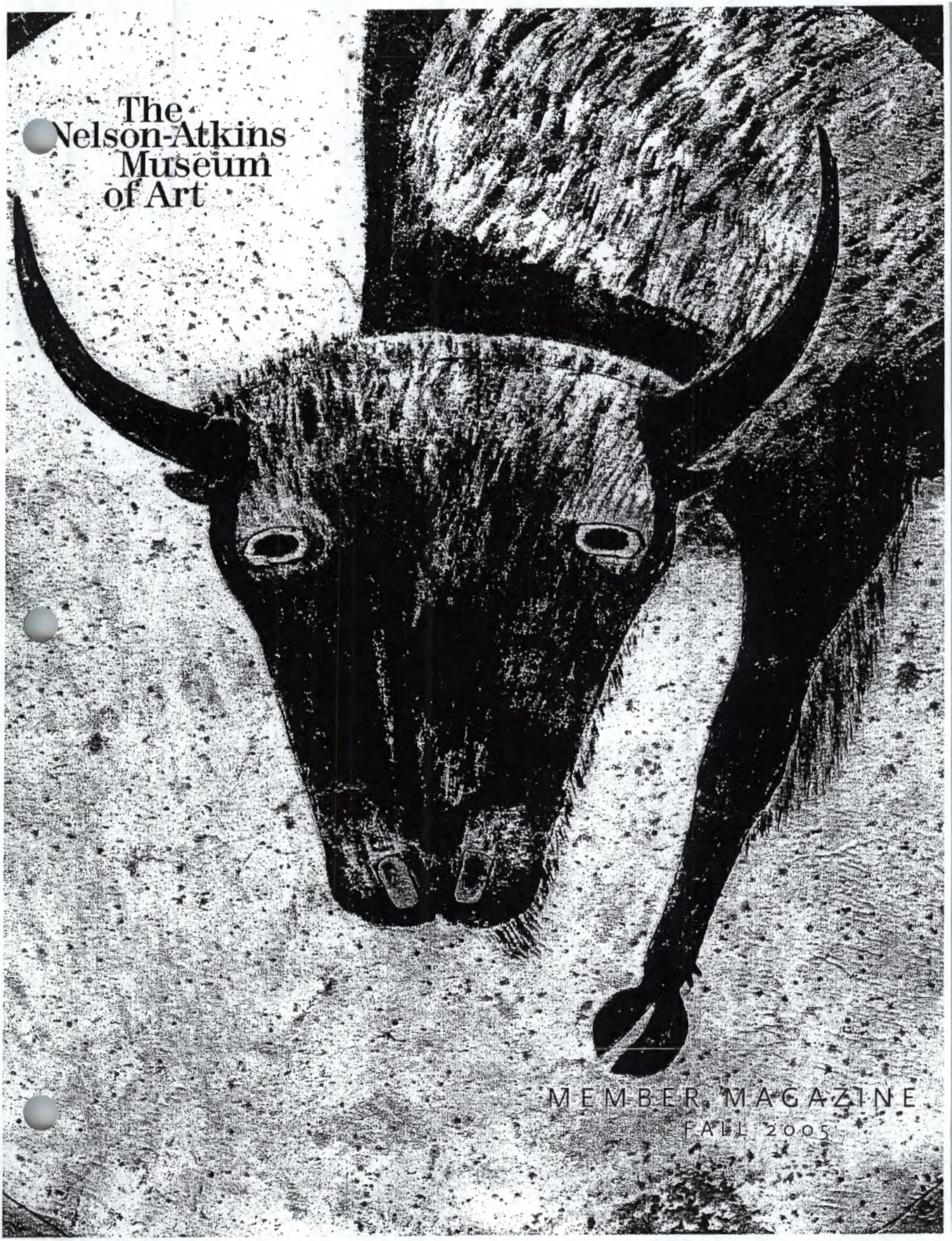
Hat
ca. 1900
Otter skin, velvet, silk cloth and ribbons, German silver, and glass beads
diam: 8 inches (20.32 cm)
Gift of Fifi White
F93-33/4

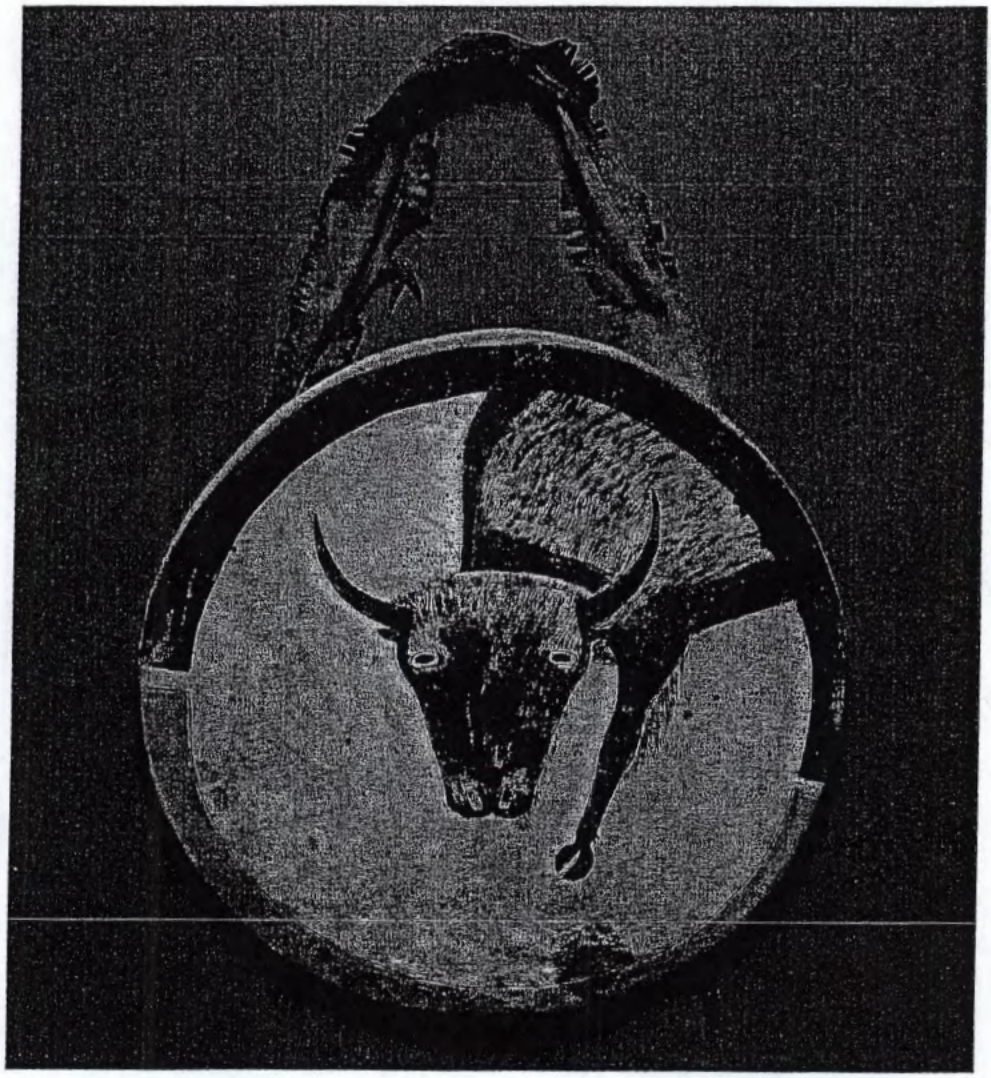

The
Nelson-Atkins
Museum
of Art
MEMBER MAGAZINE
FALL 2005

A New Department of American Indian Art

The presentation of American Indian art at the Nelson-Atkins will be transformed when the Bloch Building and renovated galleries in the original Museum open in 2007. A confluence of support provided this opportunity, which was initially created by the very generous gift of Fred and Virginia Merrill, endowing the curatorship of the new Department of American Indian Art—one of very few such departments devoted exclusively to Native arts within this country's major fine arts museums.

The Donald D. Jones bequest, a second gift of great importance immediately followed, providing a superb collection of 170 works of art together with a significant fund for acquisitions. During the same period, the creation of the Judith M. Cooke Fund for American Indian Art, an endowment for educational programming dedicated to the understanding of Native American art and culture provided another significant dimension of support. Most recently, the Keith A. Brodkin Fund for the Acquisition of Contemporary Indian Art was established, enabling the Museum to focus on the achievement and recognition of Native artists working today.

In response to the strength of these commitments and as a part of the larger expansion, the Museum is planning a new installation of American Indian art on the second floor of the original building in space now occupied by the Parker-Grant, Bloch and Spencer galleries of modern and contemporary art. Located adjacent to new galleries of American art and scheduled to open in 2007, the installation will increase space allocated for the collection from the current 1,500 to nearly 6,000 square feet. This bold and innovative step repositions American



Right: *Shield*, Arikara, North Dakota, ca. 1850. Buffalo rawhide, native leather and native pigment, 20 inches. Purchase: the Donald D. Jones Fund for American Indian Art, 2004.35.

Page 10: Roxanne Swentzell, Santa Clara Pueblo, (b. 1962). *...osha Appreciating Anything*, 1997. Clay and pigment, ...3 x 17 inches. Purchase: the Donald D. Jones Fund for American Indian Art, 2003.22.

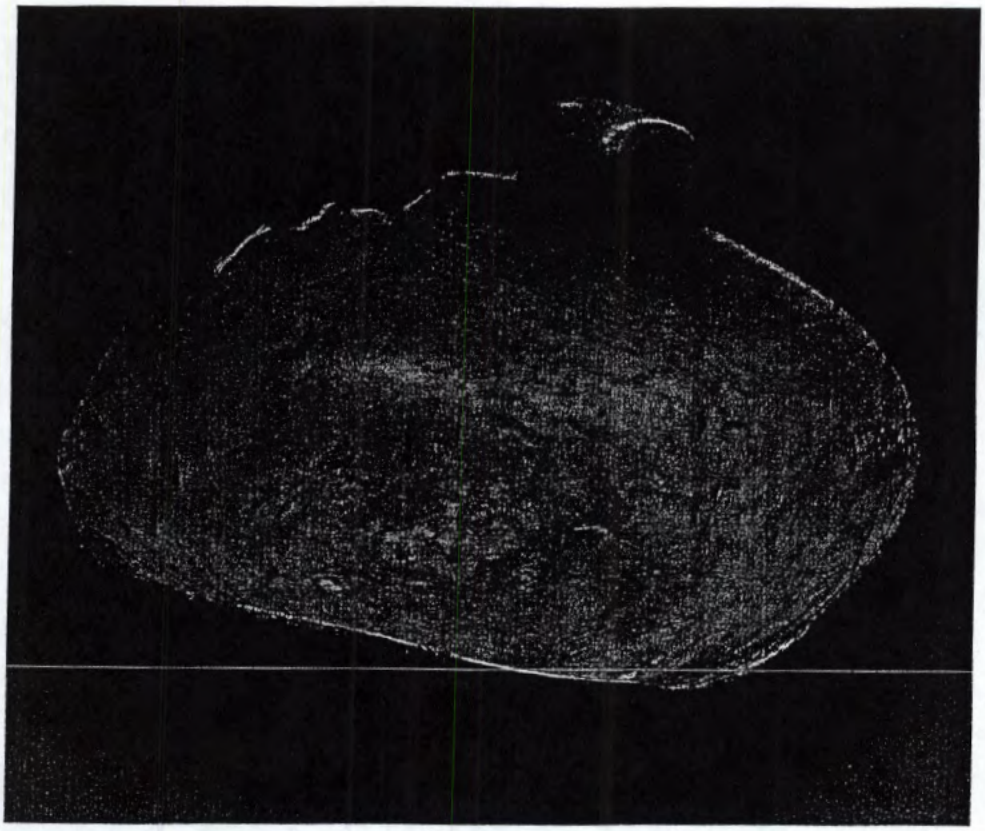
Indian art within the Museum, not only in a physical sense but also philosophically. The new configuration establishes Native traditions within the larger history of American art and culture and defines the arts of American Indian peoples as an important part of our national heritage.

The 2007 installation will place the Nelson-Atkins at the forefront of a growing national interest in the arts of Native peoples. For the first time in the Museum's history, schools will be offered tours devoted solely to American Indian art. The Museum will be able to present the depth and richness of its original collection, together with a large number of new acquisitions that significantly amplify these holdings. Since the establishment of the Department a little over three years ago, nearly 60 new works from the pre-contact, historic and contemporary periods have been acquired through purchase and gift. Three of the most important of these have been selected here for brief discussion.

Illustrated on the cover and to the left is a rawhide war shield with painted deerskin cover purchased with funds from the Donald D. Jones Fund for American Indian Art. Created by an Arikara man during the mid-19th century, this rare and important work stands apart as a masterpiece of Plains Indian visionary

painting. The shield is embellished with a striking representation of a buffalo bull, the owner's guardian spirit, which was revealed to him in a vision during a prolonged period of fasting and prayer. The painting depicts the very moment of spiritual encounter—the artist's transcendent revelation and profound connection with the supernatural. The intensity of experience has been translated into an image that is at once both powerful and emotionally compelling. This clarity of expression is formally realized through the precise delineation of form, contrasting sharply with the sense of immediacy and gesture inherent in his handling of paint and color. It is also effected through the bold composition and unusual development of pictorial space. Most immediately, it is established through the dramatic depiction of the animal itself—upswept horns, iconic hoof and direct, unwavering gaze.

The second work, a magnificent, 17th-century feast bowl from the Northeastern Woodlands, quite possibly of Mohegan or Wampanoag origin, was recently presented as a gift to the Museum by renowned collector/dealer George Terasaki of New York. No other sculptural form so fully embodies the spiritual and cultural traditions of Woodlands peoples as do the monumental, beautifully proportioned bowls of this type. Carved from the burls of trees deemed sacred, these objects functioned as ritual vessels in nearly all religious ceremonies. The rectangular projection emerging from the rim represents a *manito*, or spirit-being, directly associated with this use. Although abstractly conceived, the minimally carved form clearly depicts a raptor, thereby establishing its identity as a Thunderbird, one of the great mythic powers so often represented in Woodland Indian art.



Bird Effigy Bowl, Northeastern Woodlands, possibly Mohegan or Wampanoag, 17th century. Wood (elm) and pigment, 7 x 17 1/8 x 15 inches. Gift of George Terasaki, 2004.32.2.

The fragmented rim, eroded paint and glowing luster indicate great age and long use, revealing that this ancient bowl was revered for generations.

The third object for consideration is Roxanne Swentzell's depiction of a Pueblo clown, known as a *Kosha*—sacred beings that appear in religious dances and perform numerous roles within the ceremonial complex. Most significantly, the *Kosha* teach through their actions. This clown stares intently at his hand as though he is recognizing for the first time the complexity of its construction and, through it, perhaps, the very wonder of life—reminding us that reflection is requisite to wisdom. Regarded as one of the most important contemporary Native American artists, Swentzell's clay figures reference the long tradition of Pueblo figurative sculpture, including objects produced for ritual purposes as well as those intended for the tourist market. This work, purchased with funds from the Donald D. Jones Fund for American Indian Art, affirms religious beliefs that have defined and sustained much of Pueblo Indian artistic creation from the earliest times to the present.

These new acquisitions may be seen in Gallery 305. You are invited to discuss them and other American Indian masterworks when *The Curator Is IN!*, from 7 to 8 p.m., Friday, September 16, and 1 to 2 p.m., Saturday, September 17, in Gallery 305.

— *Gaylord Torrence*
Fred and Virginia Merrill
Curator of American Indian Art

The Nelson-Atkins Museum of Art

MEMBER MAGAZINE

SPRING 2007

Rare Headdress Added to Growing Collection

The Pawnee horned headdress *(pictured right)*, a work of exceptional beauty and expressive power, is among a group of four magnificent Plains headdresses recently donated to The Nelson-Atkins Museum of Art. Within the broad class of Native American headdresses, it is a masterwork.

Rare and important, the Pawnee example dates c. 1840 and is one of few objects from this tribe preserved from the historic period. Signifying supernatural associations and believed to endow the wearer with sacred power and protection in battle, headdresses of this type were worn by men of rank and military achievement. The work's complex assemblage of materials—buffalo hide, split cow horn, pigment, mallard duck scalp, eagle and raven feathers, horsehair, wool cloth and glass beads—and delicate construction, underlie its dramatic sculptural form as well as its profound purpose.

This extraordinary gift, together with the Museum's classic Cheyenne feather bonnet currently on view, provides a full stylistic range of Plains and Prairie headdress types. It is unlikely that such a grouping, originally collected long ago, could be assembled today.

Split Horn Headdress, North American Indian, Pawnee, Nebraska, c. 1840. Native tanned buffalo hide, mallard duck scalp, eagle and raven/crow feathers, rabbit skin, horsehair, wool cloth, pigment, cow horn and glass beads, 38 x 10 x 10 inches. Anonymous gift, 2006.28.2.

American Indian Galleries To Greatly Expand

Construction of the expanded space will cost $6.7 million, with lead gifts from Fred and Virginia Merrill and John N. and Marilyn P. McConnell. Additional funding is being sought from donors with a particular interest in Native American art.

Henry W. Bloch, chairman of the Nelson-Atkins Board of Trustees, noted that American Indian art has been part of the Museum's collection since inception. Earliest acquisitions included pieces from the Heye collection in New York and the Fred Harvey Company, and many people of his generation remember that their youthful visits to the Nelson-Atkins were highlighted by seeing the works.

"American Indian art has been a core part of the museum's collections since the founding more than 70 years ago," Bloch said. "The completion of this bold initiative, along with fulfilling the Museum's critical $100 million endowment fund, is important to the Museum's transformation for the future."

'The completion of this bold initiative is important to the Museum's future.' —Henry W. Bloch

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 2 1 2009

TAKE PRIDE IN AMERICA

Mr. Marc F. Wilson
Director and CEO
The Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, MO 64111

Dear Mr. Wilson:

Pursuant to 25 U.S.C. 3007 and 43 C.F.R. 10.12 (e), this letter serves as notice to The Nelson-Atkins Museum of Art (Nelson-Atkins) that three allegations concerning Nelson-Atkins's failure to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) have been filed with the Department of the Interior. Based on an investigation conducted in March, 2008, one allegation has been substantiated and two allegations have been determined to be unsubstantiated. In addition, the Department wishes to advise you that the National NAGPRA Program is ready to assist Nelson-Atkins in achieving NAGPRA compliance.

The Kickapoo Tribe in Kansas, a Federally recognized Indian tribe, alleged that:

1) Nelson-Atkins has in its possession, or under its control, an item identified as E89A and described as a "Kickapoo Prayer Stick";
2) The item in question is culturally affiliated with the Kickapoo Tribe in Kansas;
3) The item in question is a "sacred object";
4) The Kickapoo Tribe in Kansas requested the repatriation of the item in question;
5) Nelson-Atkins refuses to repatriate the item in question to the Kickapoo Tribe in Kansas, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(v);
6) Nelson-Atkins has not completed an inventory of Native American human remains and associated funerary objects in its possession, or under its control, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(iii); and
7) Nelson-Atkins has not notified the Kickapoo Tribe in Kansas that they are culturally affiliated with Native American human remains and associated funerary objects in the Museum's possession, or under its control, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(iv).

The investigation found that:

1. After November 16, 1990, Nelson-Atkins received funds from a Federal agency through a grant, loan, contract (other than a procurement contract) or other arrangement by which a Federal agency makes or made available aid in the form of funds, as the term "receives Federal funds" is defined at 43 C.F.R. 10.2 (a)(3)(iii);

2. Since 2002, Nelson-Atkins has had in its possession, or under its control, an item identified as E89A and described as a "Kickapoo Prayer Stick";
3. On October 17, 2007, and before the October 20, 2007 deadline required by 43 C.F.R. 10.13 (b)(1)(i), Nelson-Atkins completed a summary of Native American cultural items which came into in its possession, or under its control, after November 16, 1993, and included in the summary was the item identified as E89A and described as a "Kickapoo Prayer Stick";
4. Nelson-Atkins admits that the item in question meets the definition of "sacred object," as set forth in 25 U.S.C. 3001 (3)(C) and 43 C.F.R. 10.2 (d)(3);
5. Through the summary and consultation procedures in 43 C.F.R. 10.14, Nelson-Atkins established the cultural affiliation of the item in question with the Kickapoo Tribe in Kansas;
6. On July 11, 2007, the Kickapoo Tribe in Kansas requested, in writing, that Nelson-Atkins repatriate the item in question to the Tribe;
7. The Kickapoo Tribe in Kansas presented evidence which, standing alone before the introduction of evidence to the contrary, would support a finding that Nelson-Atkins does not have a right of possession to the item in question;
8. Nelson-Atkins did not provide evidence to the contrary proving that the Museum has a right of possession to the item in question;
9. No exemptions specified in 43 C.F.R. 10.10 (c) allow Nelson-Atkins to refuse to repatriate the item in question to the Kickapoo Tribe in Kansas;
10. Nelson-Atkins refused to repatriate the item in question to the Kickapoo Tribe in Kansas within 90 days following either the July 11, 2007 written request by the Kickapoo Tribe of Kansas or the October 17, 2007 completion of Nelson-Atkins's summary, as required by 43 C.F.R. 10.10;
11. Nelson-Atkins does not have possession of, or control over, Native American human remains and associated funerary objects.

Based on the above findings of fact, I have made the following determinations with respect to each of the allegations of failure to comply:

1. **0812_NELSON_ATKINS.** Nelson-Atkins is a "museum" per the definition of the term at 25 U.S.C. 3001 (8) and 43 C.F.R. 10.2 (a)(3) and, thus, is required to comply with the requirements of NAGPRA. As the facts tend to prove that the criteria for repatriation in 43 C.F.R. 10.10 (a) were met, Nelson-Atkins was required, at the latest, to repatriate to the Kickapoo Tribe in Kansas the sacred object identified as E89A and described as a "Kickapoo Prayer Stick" within 90 days after October 17, 2007, or by January 17, 2008. Nelson-Atkins did not do so, and this omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(v).
2. **0813_NELSON_ATKINS.** As Nelson-Atkins does not have possession of, or control over, Native American human remains and associated funerary objects, the allegation that Nelson-Atkins has failed to complete an inventory of Native American human remains and associated funerary objects is unsubstantiated.
3. **0814_NELSON_ATKINS.** As Nelson-Atkins does not have possession of, or control over, Native American human remains and associated funerary objects, the allegation that Nelson-Atkins has failed to notify the Kickapoo Tribe in Kansas that the Tribe is culturally affiliated with Native American human remains and associated funerary objects in the possession or control of Nelson-Atkins is unsubstantiated.

Civil Penalty Process

Pursuant to 43 C.F.R. 10.12 (f), upon receipt of this notice of failure to comply, you may:

1. Within 45 days of the date of service, seek informal discussion with the Secretary of the Interior's designee by contacting NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov);
2. Take no action and await my notice of assessment;
3. Within 45 days of the date of service, request a hearing to contest this finding; or
4. Within 45 days of the date of service, contact NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov) and waive your right to a hearing.

Procedures for requesting a hearing are set forth at 43 C.F.R. 10.12 (j). Failure to file a written request for a hearing within 45 days of the date of service waives your right to a hearing. After 45 days from the date of service, and if no hearing is requested, I am authorized, pursuant to 43 C.F.R. 10.12 (h), to assess a civil penalty against The Nelson-Atkins Museum of Art for failure to comply with the requirements of NAGPRA. Nelson-Atkins has the right to seek judicial review of any final administrative decision assessing a civil penalty.

More information on NAGPRA, as well as the civil penalty hearing and appeal process, can be found in the enclosed copies of 25 U.S.C. 3001-3013 and 43 C.F.R. Part 10. If you have any questions, or would like to initiate an informal discussion of this matter, you may contact NAGPRA Enforcement Coordinator David Tarler at (202) 354-2108. Alternatively, if you take no action you will hear from this office in approximately 45 days. If you seek technical assistance on NAGPRA compliance, you may contact National NAGPRA Program Manager Sherry Hutt, at (202) 354-1479.

Sincerely,

Will Shafroth
Acting Assistant Secretary for Fish
and Wildlife and Parks

cc: Steve Cadue, Chair, Kickapoo Tribe in Kansas
Amelia C. Holmes, Senior Staff Attorney, Kickapoo Tribe in Kansas
Gaylord Torrence, Fred and Virginia Merrill Curator of American Art, The Nelson-Atkins Museum of Art

Enclosures: 25 U.S.C. 3001-3013
43 C.F.R. Part 10

(563) 880-8288

"Gaylord Torrence" <gtorrence@nelson-atkins.org>

02/15/2008 12:39 PM CST

To: <Bob_Palmer@nps.gov>

cc: "Weiner, Daniel H." <weiner@HughesHubbard.COM>

Subject: RE: NAGPRA Allegation by Kickapoo Tribe in Kansas

Dear Mr. Palmer,

My response is attached.

-----Original Message-----
From: Bob_Palmer@nps.gov [mailto:Bob_Palmer@nps.gov]
Sent: Wednesday, February 06, 2008 3:12 PM
To: Gaylord Torrence
Subject: NAGPRA Allegation by Kickapoo Tribe in Kansas

Dear Mr. Torrence,

My name is Bob Palmer and I am the Native American Graves Protection and Repatriation Act (NAGPRA) Civil Penalties Investigator for the United States Department of the Interior. I am collecting information relating to a series of allegations made against the Nelson-Atkins Museum of Art by the Kickapoo Tribe in Kansas.

At this point, I would ask that you address the following points by providing me with information relating to the specific allegations listed below.

1) The Kickapoo Tribe in Kansas has alleged that the Nelson-Atkins Museum of Art did not complete an inventory of American Indian human remains, unassociated funerary objects, sacred objects and items of cultural patrimony by September 21, 2007, as is required by the Native American and Graves Protection Act and associated regulations (see 43 CFR 10.8 and 43 CFR 10.13 (b)(1)(i)). Is this correct?

2) The Kickapoo Tribe in Kansas has alleged that the Nelson-Atkins Museum of Art has not notified culturally affiliated Indian tribes of the completion of an inventory (see 43 C.F.R. 10.12 (b)(1)(iv)). Is this correct?

3) The Kickapoo Tribe in Kansas has alleged that the Nelson-Atkins Museum of Art refuses to repatriate human remains, funerary object, sacred object or object of cultural patrimony to a lineal descendent or culturally affiliated Indian tribe or Native Hawaiian. (see 43 C.F.R. 10.12 (b)(1)(v)). Specifically, the item of contention is a Kickapoo Prayer Stick. Is this allegation correct?

I hope to conclude this investigation as quickly as possible, so a timely reply on your part would be appreciated.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me at any time on the numbers below.

Kind regards,

Bob Palmer
(563) 880 8288
(563) 588 7757

(See attached file: Palmer document.docx)

Lt Shafroth.pdf

2.15.2008

Dear Mr. Palmer,

I appreciate your consideration in calling prior to sending your email. Regarding the points you have asked me to address:

1) This is not correct. According to information provided by the National NAGPRA office, The Nelson-Atkins Museum of Art is not required to complete an inventory because the Museum holds no human remains or associated funerary objects in its collection. In compliance with the rule on the future applicability of NAGPRA (43 C.F.R. 10.13), which went into effect April 20, 2007, the Museum completed and sent summaries of all American Indian objects acquired by the Museum since its last summary to the appropriate federally recognized tribes throughout the United States. Our summaries were postmarked October 15, 2007, prior to the designated October 20, 2007 deadline. The Museum sent summaries that included an image of the prayer stick in contention to all three recognized Kickapoo tribes. We sent our summary to the Kickapoo Tribe in Kansas to Mr. Russell Bradley, the Tribe's NAGPRA contact listed in the Native American Consultation Database. We assume Mr. Bradley received our mailing, as it was not returned to the Museum.

2) This is not correct. As noted in No. 1, The Museum is not required to complete an inventory because it holds no human remains or associated funerary objects in its collection.

3) The Kickapoo Tribe's allegation that the Museum refuses to return the prayer stick in contention is not correct. The Museum has moved steadily towards responding to the Tribe's repatriation request from the time it was first received, and Museum staff intends to present the issue to the Board of Trustees during its first meeting of 2008, which is scheduled for March 17. At that time, the Board will make its decision regarding the Tribe's request and notification will follow.

As the record of the Museum's ongoing communication and correspondence with the Kickapoo Tribe reveals, the Museum has been responsive to the Tribe's concerns immediately upon their initial request and going forward. Moreover, the Curator, Director and Chairman of the Board of Trustees have made a sustained effort to assure the Tribe of the Museum's commitment to adhering to the guidelines established by NAGPRA. We have also sought to communicate our legal responsibility to exercise due diligence, and we have moved ahead steadily to prepare a recommendation to the Board of Trustees that includes a full examination of the issue, recognizing that the prayer stick held in the public trust by the Museum was legally alienated from the Kickapoo Tribe and passed through a succession of legal owners before being acquired by the Museum.

We recognize that the prayer stick in contention meets NAGPRA's definition of a sacred object. However, the fact that Kickapoo prayer sticks were by tradition individually owned and could therefore be legally alienated by their owners raises the issue of the Museum's legitimate right of possession of that object. The well-documented fact that the first prayer sticks were made by the Church's founder, Kenekuk, and sold to his practitioners established a precedent of individual ownership that has continued to the present day. Compelling documentation indicates that the Museum's prayer stick was legally acquired by a reputable ethnologist from a named Kickapoo woman in 1939, one of several prayer sticks that he acquired from three different Kickapoo tribal members during the same period. From that point, we have established the provenance of the object's descent through successive owners to the time of its acquisition by the Museum. The Museum's staff and Board of Trustees must understand the significance of these facts within the context of NAGPRA in considering the issue of repatriation (see 43 C.F.R.§ 10.10 (a) (1) (iv), (2).)

I have endeavored to explain to the Tribe and their legal counsel that this is the Museum's first repatriation request and that the process has required time for Museum staff to conduct the appropriate research, find and consult experienced legal counsel, and coordinate an institutional process that would allow full and proper presentation to the Board of Trustees, thus enabling that body to exercise its responsibility in an informed manner.

Here, I must note that part of the delay in resolving this matter rests with the Kickapoo Tribe. In conducting the Museum's appropriate inquiry, I sent a letter to Tribal Chairman Steve Cadue on September 5, 2007, requesting answers to several questions likely be asked by the Board of Trustees during their deliberation, at the same time explaining that it would be my responsibility to provide answers to legitimate questions from the Board during its deliberation. I received no response. On October 7, 2007, answers to some of the questions were addressed when Board Chairman Estelle Sosland and I traveled to the Kickapoo Reservation to meet with members of the Kennekuk Church in order for Mrs. Sosland to hear the members' concerns directly. Other questions were not answered. Only after repeated requests to the Tribe's attorney did I finally receive a response on December 7, 2007 three months after my initial letter. Had the Tribe responded in a timely manner, we might have been prepared to bring this matter to the Board of Trustees at its December 2007 meeting.

In summation, I emphasize that, throughout, we have endeavored to work with the Tribe in a respectful and collegial manner. I wish to express my personal regret and disappointment that the Tribe has taken this action, knowing that a resolution is forthcoming. In my last phone communication with Tribal attorney Suzanna Cox in early January 2008, I assured her that the Tribe's request would, without further delay, be presented to the Museum's Board of Trustees for review and decision during its first scheduled meeting of 2008, occurring March 17. I also indicated that I expected a resolution favorable to the Tribe.

I trust my response provides you the information needed to conclude this phase of your inquiry. Please let me know if I can provide anything further. In this regard, I would be glad to send you a complete copy of our file of correspondence and communication with the Tribe if it is needed.

As I mentioned in our last conversation, I plan to be out of the country from February 19th through the 27th.

Thank you.

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art
The Nelson-Atkins Museum of Art

www.nelson-atkins.org

816.561.4000 Telephone
816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

28 March 2008

Mr. Charley Switch
1105 Goldfinch Road
Horton, KS 66439

Dear Mr. Switch,

I am writing as a follow-up to my phone call informing you and the members of the Kennekuk Church that, at the meeting of March 17, 2008, the Board of Trustees of the Nelson-Atkins Museum of Art voted unanimously to deaccession the Kickapoo Prayer Stick (2002.5.1) in order that it be repatriated to the Kennekuk Church of the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas in response to the Native American Graves Protection and Repatriation Act.

The Museum has submitted the *Notice of Intent to Repatriate a Cultural Item* to the Department of the Interior, National Park Service. Once the Notice has appeared in the Federal Register for 30 days, and providing there are no competing claims, the Museum is free to repatriate the object.

Within the coming weeks, I would like to make arrangements with you for the return of the prayer stick. It would be our wish that Estelle Sosland, Chairman of the Board, and I bring the object and present it to the Kennekuk Church in a private ceremony, attended exclusively by Museum officials and members of the Church.

You may expect a call from me in the near future. I look forward to our next meeting.

Sincerely,

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

cc: Ms. Susanna Coxe, Attorney, Kickapoo Tribe in Kansas
Mr. Joe Williams, NAGPRA Director, Kickapoo Tribe in Kansas

www.nelson-atkins.org

816.561.4000 Telephone
816.561.1011 Facsimile

The Nelson-Atkins Museum of Art

4525 Oak Street, Kansas City, Missouri 64111

October 17, 2007

Russell Bradley
Kickapoo Tribe of Kansas
P.O. Box 271
1107 Goldfinch Road
Horton, KS 66439

Dear Mr. Bradley:

Please find attached a summary of objects in our collection of North American Indian art acquired since our last summary which are identified only as being from the Prairie region of the United States. This letter and attached list are in compliance with the rule on the future applicability of NAGPRA (43 C.F.R. 10.13) which went into effect on April 20, 2007. My office will communicate with you in the near future. In the meantime, if you have any questions or concerns, please contact my assistant, Jennifer Byers, at 816-751-1320 or jbyers@nelson-atkins.org.

Sincerely,

Gaylord Torrence

Gaylord Torrence
Fred and Virginia Merrill Curator of American Indian Art

Enclosure (1)

Nelson-Atkins Museum of Art

NAGPRA Summary - Prairie region

Silver
Jewelry

Plains
Prairie

()

Earrings
late 20th century
German silver

Bequest of Donald D. Jones
2001.3.126.A,B 6.2001.126.A,B
DJAT-115

Silver

Plains
Prairie

()

Roach Spreader
late 20th century
German silver

Bequest of Donald D. Jones
2001.3.127 6.2001.127
DJAT-115

Ceremonial Object

Potawatomi
Kickapoo
Prairie

()

Prayer Stick
ca. 1825
Wood
Maximum: 1 1/2 in. (3.81 cm)
Overall: 1/4 x 6 3/4 in. (0.635 x 17.145 cm)
Purchase: the Donald D. Jones Fund for American Indian Art
2002.5.1 6.2002.1

Silver
Jewelry

Prairie

()

Earrings
ca. 1865
German silver
4 5/8 inches (11.75 cm)
Purchase: the Donald D. Jones Fund for American Indian Art
2004.28.A,B 36.2004.A,B

Sculpture

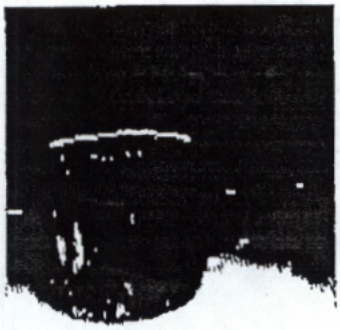
Prairie
Woodlands

()

Pipe Bowl
Early 19th century
Catlinite
2 1/8 x 2 7/8 x 1 inches (5.4 x 7.3 x 2.54 cm)
Gift of George Terasaki
2004.32.1 60.2004.1

Clothing

Osage
Prairie



()

Hat
ca. 1900
Otter skin, velvet, silk cloth and ribbons, German silver, and glass beads
diam: 8 inches (20.32 cm)
Gift of Fifi White
F93-33/4

Gaylord Torrence
<gtorrence@nelson-atkins.org>
04/02/2010 07:18 PM EST

To: "Bob_Palmer@nps.gov" <Bob_Palmer@nps.gov>
cc: Marc Wilson <mwilson@nelson-atkins.org>, "Weiner, Daniel H." <weiner@HughesHubbard.COM>, Jennifer Byers <jbyers@nelson-atkins.org>, Mendel Martin
Subject: RE: NAGPRA Allegation by Kickapoo Tribe in Kansas

Dear Mr. Palmer,

I am sorry for the delay in responding to your inquiry. Curatorial offices are being moved within the museum and my access to my computer and files have been interrupted for a time.

As requested, I have attached a copy of the correspondence between Assistant Secretary Shafroth and Director Marc Wilson. As noted in Mr. Wilson's letter, the object in question was returned to the Kickapoo Tribe in Kansas following action by the Museum's Board of Trustees and the Notice of Intent To Repatriate in Federal Register. Specifics regarding the repatriation are outlined.

The annual operating budget of the Nelson-Atkins Museum of Art is $22,132,855.

If I can be of further assistance, please do not hesitate to contact me.

Gaylord Torrence

-----Original Message-----
From: Bob_Palmer@nps.gov [mailto:Bob_Palmer@nps.gov]
Sent: Wednesday, March 31, 2010 6:06 PM
To: Gaylord Torrence
Subject: Fw: NAGPRA Allegation by Kickapoo Tribe in Kansas

Dear Mr. Torrence,

Thank you for contacting me by telephone on March 23, 2010 regarding the matter between the Kickapoo Tribe in Kansas and the Nelson-Atkins Museum of Art. You indicated in our conversation that the Nelson-Atkins Museum of Art had sent a letter to the Assistant Secretary some time ago about this matter. I stated to you that I was not aware of the existence of this letter, and ask if you could provide me with a copy of it. It was my understanding that you were willing to provide me with a copy of the aforementioned letter, and that you were also willing to address the questions that I had asked in the email sent to you on March 23, 2010.

Since our conversation, I have attempted to locate any correspondence that the Assistant Secretary would have received from the Nelson-Atkins Museum of Art and have found no record of the Secretary receiving any. At this time, I would very much appreciate you sending me a copy of the letter, as well as addressing the questions asked of you on March 23, 2010. I have attached the original email below in case you misplaced my earlier correspondence.

If you are not in a position to respond to my query, could you please provide me with the name of an appropriate senior museum official and/or the museum's legal counsel so this matter can be moved to a conclusion.

Thanking you with kind regards,

Bob Palmer
(563) 880 8288

"The use of plant oil as fuel may seem insignificant, but such products can in time become just as important as kerosene and these coal tar products of today." Rudolf Diesel - 1912

CONFIDENTIALITY/SENSITIVITY NOTICE:
This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is law enforcement sensitive, proprietary, privileged, confidential and may be legally protected or otherwise exempt from disclosure. This message may be forwarded by the addressee, as appropriate, to further disseminate law enforcement sensitive information to the field, as needed. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

----- Forwarded by Bob Palmer/EFMO/NPS on 03/31/2010 05:43 PM -----

Bob Palmer

03/23/2010 10:22 AM CDT

To: "Gaylord Torrence" <gtorrence@nelson-atkins.org>

cc:

Subject: RE: NAGPRA Allegation by Kickapoo Tribe in Kansas(Document link: Bob Palmer (Archive))

Dear Mr. Torrence,

Per my voice mail message on the morning of March 23, 2010, I am working to fully conclude the NAGPRA matter that was raised by the Kickapoo Tribe of Kansas concerning a prayer stick (E89A) and that the Secretary of the Interior found the Nelson-Atkins Museum of Art to have failed to comply with one of the specific requirements of NAGPRA. To that end, can you confirm and / or provide me with the following information:

1) Has the aforementioned prayer stick been repatriated and if so, when and to whom?

2) What is the Nelson-Atkins Museum of Art's annual operating budget.

This should permit me to fully complete this matter. Please do not hesitate to contact me should you have any questions.

Kind regards,

Bob Palmer

www.nelson-atkins.org

816.561.4000 Telephone
816.561.7154 Facsimile

4525 Oak Street, Kansas City, Missouri 64111

May 15, 2009

Mr. Will Shafroth
Acting Assistant Secretary for Fish and Wildlife and Parks
United States Department of the Interior
Office of the Secretary
Washington D. C. 20240

Dear Mr. Shafroth,

I write in response to your letter of April 21 with regard to allegations made under the regulations of NAGPA by the Kickapoo Tribe in Kansas with respect to the Museum's collections of American Indian works of art.

The work in question, a Kennekuk Prayer Stick, was turned over to the head of the Kennekuk Church on the reservation property of the Kickapoo Tribe in Kansas in Horton, Kansas, on Sunday, July 6, 2008. Present at the event were members of the Kennekuk Church, who are all members of the Kickapoo Tribe in Kansas, and representatives of Tribal leadership including legal counsel for the Tribe and the Tribe's NAGPRA Officer. I have enclosed a photocopy of the Nelson-Atkins' *Outgoing Receipt* showing that the Kennekuk Prayer Stick was received by representatives of the Tribe. The Receipt has been signed by Joe Williams, NAGPRA officer, and by Cheryl Simon, legal counsel for the Tribe.

I thank you for your diligent attention to the matter and for your determinations. The Nelson-Atkins has always complied in a timely way with reporting and notification requirements.

Following receipt of the request from the Kickapoo Tribe in Kansas for repatriation of the Kennekuk Prayer Stick, the Nelson-Atkins entered into numerous, repeated on- going discussions with representatives of the Kickapoo Tribe in Kansas. The intent of these discussions was to uncover the grounds for establishing the work as a "sacred" object. Concurrently, the Nelson-Atkins' Curator of American Indian Art undertook detailed archival research into historical practices of manufacture and distribution of prayer sticks to the Kennekuk faithful from the inception of the sect in the 19th century. The chance discovery of manuscript material allowed a complete reconstruction of the modern provenance of the work in question and established clearly that the Kennekuk Prayer Sticks were property of individuals with right of alienation. The records tend to show, in addition, that the work in question was legally obtained from a lapsed member of the Kennekuk Church. Despite this research, the Trustees and Staff of the Nelson-Atkins Museum felt that the prayer stick had such emotional meaning to members of the Kennekuk Church that the return of the prayer stick was merited on humanitarian grounds regardless of gray areas in legal matters. We believe that the outcome is satisfactory to all parties.

I am sending copies of this letter to appropriate members of the Kickapoo Tribe in Kansas. I am also enclosing correspondence between Gaylord Torrence, Fred and Virginia Merrill Curator of American Indian Art and Mr. Bob Palmer, NAPGRA Civil Penalties Investigator for the United States Department of the Interior.

If there are issues still outstanding from the perspective of NAGPRA requirements, please do not hesitate to inform me of those.

Thank you very much.

Yours truly,

Marc F. Wilson
Menefee D. and Mary Louise Blackwell Director/CEO

Enclosures
cc: Gaylord Torrence, Fred and Virginia Merrill Curator of American Indian Art

OUTGOING RECEIPT

The Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, Missouri 64111 816.561.4000

The object(s) described below, or on the attached pages, have been released by The Nelson-Atkins Museum of Art, subject to the conditions listed on the reverse.

Shipped to
Joe Williams
NAGPRA Director
Kickapoo Tribe in Kansas
Name

1107 Goldfinch Road
Street Address

Horton, KS 66439
City, state, zip code

Business telephone

Fax

Owner's Name (if different)

Street Address

City, state, zip code

Business telephone

Home telephone

Purpose: NAGPRA Repatriation

Date shipped: July 6, 2008 Insured by: Nelson-Atkins in transit

Transport via: Gaylord Torrence

Packing: Soft-packed within a cardboard box

Condition: Good

Released by: Angela Bell-Morris
Signature for the Trustees of The William Rockhill Nelson Trust and The Nelson Gallery Foundation
Angela Bell-Morris, Associate Registrar, Collections
Name and title

Museum Reference Number	Description
2002.5.1	Ceremonial Object – North American Indian | Kickapoo *Prayer Stick*, ca. 1825 Wood Overall: 1/4 x 6 3/4 in. (0.635 x 17.145 cm)

Receipt of the object(s) described above, in good condition unless otherwise noted, is hereby acknowledged, subject to the conditions on the reverse.

Joe Williams
Signature of Recipient

NAGPRA Director
Title

Joe Williams
Please type or print name

July 6, 2008
Date

Please sign and date both copies of this receipt and return one copy to: Registrar, The Nelson-Atkins Museum of Art, Kansas City, Missouri 64111-1873. The second copy is for your records.

Dated: May 12, 2008.

Roxie C. Trost,

Field Manager, Barstow Field Office.

[FR Doc. E8–11602 Filed 5–22–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Submission to the Office of Management and Budget; Opportunity for Public Comment (OMB#34 1024–xxxx, "Appalachian Trail Management Partners Survey")

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a proposed new collection of information (OMB #1024–xxxx). The 30-Day Federal Register Notice for this collection of information that was published on May 13, 2008 (Volume 73, Number 93, Pages 27552–27553) was published in error and should be recognized as an incorrect version. The correct version of this 30-Day Federal Register Notice will be published at a later date. If you have any questions or concerns regarding this matter, please contact Leonard E. Stowe, NPS, Information Collection Clearance Officer, 1849 C St., NW., (2665), Washington, DC 20240; or via fax at 202/371–1427; or via e-mail at *leonard_stowe@nps.gov.*

Dated: May 19, 2008.

Leonard E. Stowe,

NPS, Information Collection Clearance Officer.

[FR Doc. E8–11543 Filed 5–22–08; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: The Nelson Gallery Foundation, Kansas City, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hare given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of The Nelson Gallery Foundation, Kansas City, MO, that meets the definition of "sacred object" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

The cultural item is a *Prayer Stick* (2002.5.1). It is carved from maple wood, measuring 6 3/4 inches by 1 1/2 inches by 1/4 inches. The central length of the object consists of an elongated, softly curved diamond shape terminating at the upper and lower ends in square configurations, surmounted at the top by a small diamond–shaped projection. Occupying the upper square of the front surface are incised images of a house and four trees. Below, occupying the length of the central panel, are three identical sets of carved symbols. All of these features conform to the classic form of other documented Kickapoo prayer sticks. Printed in ink on the reverse side are old catalogue numbers, E89A and M805A.

In 1939, the prayer stick was collected on the Potawatomi Reservation in Kansas from Martha Jackson, a Kickapoo woman who apparently married into the Potawatomi tribe, by Floyd Schultz, a prominent Clay Center, KS, businessman and civic leader, who was also an amateur archeologist and ethnologist. Research suggests that Mr. Schultz obtained the prayer stick legally and ethically from Mrs. Jackson. Sometime within the ten years following Mr. Schultz's death in 1951, the cultural item was sold by his widow to Pat Read, an Indian trader and art dealer based in Lawrence, KS, as part of a larger ethnographic collection. Mr. Read sold the piece in the mid–1960s to Mr. and Mrs. Larry Frank, Arroyo Hondo, NM. In 2002, The Nelson Gallery Foundation, which also does business as The Nelson–Atkins Museum of Art, purchased the cultural item from Mr. and Mrs. Frank.

During consultation, members of the Kennekuk Church of the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas presented evidence that the prayer stick met NAGPRA's definition as a "sacred object" and is needed for the practice of a traditional Native American religion by present–day adherents.

Officials of The Nelson Gallery Foundation have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the one cultural item described above is a

specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present–day adherents. Officials of The Nelson Gallery Foundation also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Gaylord Torrence, Fred and Virginia Merrill Curator of American Indian Art, The Nelson–Atkins Museum of Art, 4525 Oak St., Kansas City, MO 64111, telephone (816) 751–0427, before June 23, 2008. Repatriation of the sacred object to the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas may proceed after that date if no additional claimants come forward.

The Nelson Gallery Foundation is responsible for notifying the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas that this notice has been published.

Dated: April 23, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–11576 Filed 5–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Alaska State Office, Bureau of Land Management, Anchorage, AK; Arizona State Museum, University of Arizona, Tucson, AZ; and Museum of the Aleutians, Unalaska, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Alaska State Office, Bureau of Land Management, Anchorage, AK, and in the possession of the Arizona State Museum, University of Arizona, Tucson, AZ, and Museum of the Aleutians, Unalaska, AK. The human remains were removed from St. Lawrence Island, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations

National NAGPRA
National Park Service

FR Doc E8-11576[Federal Register: May 23, 2008 (Volume 73, Number 101)]
[Notices]
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From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr23my08-98]

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: The Nelson Gallery Foundation, Kansas City, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of The Nelson Gallery Foundation, Kansas City, MO, that meets the definition of "sacred object" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

The cultural item is a Prayer Stick (2002.5.1). It is carved from maple wood, measuring 6 3/4 inches by 1 1/2 inches by 1/4 inches. The central length of the object consists of an elongated, softly curved diamond shape terminating at the upper and lower ends in square configurations, surmounted at the top by a small diamond-shaped projection. Occupying the upper square of the front surface are incised images of a house and four trees. Below, occupying the length of the central panel, are three identical sets of carved symbols. All of these features conform to the classic form of other documented Kickapoo prayer sticks. Printed in ink on the reverse side are old catalogue numbers, E89A and M805A.

In 1939, the prayer stick was collected on the Potawatomi Reservation in Kansas from Martha Jackson, a Kickapoo woman who apparently married into the Potawatomi tribe, by Floyd Schultz, a prominent Clay Center, KS, businessman and civic leader, who was also an amateur archeologist and ethnologist. Research suggests that Mr. Schultz obtained the prayer stick legally and ethically from Mrs. Jackson. Sometime within the ten years following Mr. Schultz's death in 1951, the cultural item was sold by his widow to Pat Read, an Indian trader and art dealer based in Lawrence, KS, as part of a larger ethnographic collection. Mr. Read sold the piece in the mid-1960s to Mr. and Mrs. Larry Frank, Arroyo Hondo, NM. In 2002, The Nelson Gallery Foundation, which also does business as The Nelson-Atkins Museum of Art, purchased the cultural item from Mr. and Mrs. Frank.

During consultation, members of the Kennekuk Church of the Kickapoo

Tribe of Indians of the Kickapoo Reservation in Kansas presented evidence that the prayer stick met NAGPRA's definition as a ``sacred object'' and is needed for the practice of a traditional Native American religion by present-day adherents.

Officials of The Nelson Gallery Foundation have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the one cultural item described above is a

[[Page 30152]]

specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of The Nelson Gallery Foundation also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Gaylord Torrence, Fred and Virginia Merrill Curator of American Indian Art, The Nelson-Atkins Museum of Art, 4525 Oak St., Kansas City, MO 64111, telephone (816) 751-0427, before June 23, 2008. Repatriation of the sacred object to the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas may proceed after that date if no additional claimants come forward.

The Nelson Gallery Foundation is responsible for notifying the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas that this notice has been published.

Dated: April 23, 2008.
Sherry Hutt,
Manager, National NAGPRA Program.
[FR Doc. E8-11576 Filed 5-22-08; 8:45 am]

BILLING CODE 4312-50-S

Back to the top

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Dr. Julián Zugazagoitia
Director and CEO
The Nelson-Atkins Museum of Art
4525 Oak Street
Kansas City, MO 64111

Dear Dr. Zugazagoitia:

On April 21, 2009, the Assistant Secretary of the Interior for Fish and Wildlife and Parks notified Marc Wilson (your predecessor) of his determination that The Nelson-Atkins Museum of Art (Nelson-Atkins) had failed to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA). The Assistant Secretary determined that Nelson-Atkins refused to repatriate a sacred object to a culturally affiliated Indian tribe, which refusal constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(v).

At the time he issued the notice of failure to comply, the Assistant Secretary was unaware that, in response to the July 11, 2007 request from the Kickapoo Tribe of Kansas (Tribe) for the repatriation of the sacred object, described as a "Kickapoo Prayer Stick," Nelson-Atkins had already agreed to repatriate the cultural item to the Tribe; had already published a Notice of Intent to Repatriate in the Federal Register on May 23, 2008; and had already repatriated the cultural item to the Tribe on July 6, 2008. In light of the specific facts of this case, including the repatriation of the sacred object to the Tribe in 2008, I have determined that this case is now moot, and I consider the matter closed.

Sincerely,

Rachel Jacobson
Principal Deputy Assistant Secretary
for Fish and Wildlife and Parks

cc: Steve Cadue, Chair, Kickapoo Tribe in Kansas
Amelia Holmes, Legal Attorney, Kickapoo Tribe in Kansas
Gaylord Torrence, Fred and Virginia Merrill Curator of American Art, The Nelson-Atkins Museum of Art

WOODS MEMORIAL LIBRARY AND MUSEUM

Leonard Little Finger
(b) (6)
[redacted]

July 16, 2010

Ms. Sherry Hutt, Director
National Park Service
1849 C Street NW
Washington, DC 20240

Dear Ms. Hutt:

My name is Leonard Little Finger, and I am a member of the Oglala Lakota tribe residing in Oglala, SD, on the Pine Ridge Indian Reservation, Pine Ridge, SD. I am a direct descendant of Chief Big Foot, who was massacred along with 290 men, women, and children at the Wounded Knee Creek Massacre on December 29, 1890.

On July 29, 2000, I was recognized by the Woods Memorial Library/Museum, in Barre, MA., as a direct descendent of Chief Big Foot allowing me to repatriate a hair lock taken off of the body of Chief Big Foot's at the time of the massacre. Upon receipt of the hair lock, I returned back to the home site of my grandfather, John Little Finger, the grandson of Chief Bigfoot. In a traditional Lakota burial known as The Keeping of the Soul Ceremony, the hair lock was returned back into Mother Earth. This was accomplished within the authority granted by a Letter of Administratrix, from the Oglala Sioux Tribal Court. (SEE ATTACHED DOCUMENT)

In my travel to Barre, MA, I became aware that Woods Memorial Library/Museum had also received possibly as much as 200 other items in 1893 from a local traveling shoe salesman, Frank Root, who donated them to the museum/library for their collection. The items had been sold to him by the contractors hired by the military to gather and bury the dead after the massacre. All personal items were taken (stolen) from the dead bodies that littered the killing field. I am not aware of any granted permission, written or orally, by the government to do this.

In early 2007, I received a telephone call from Ann Meilus, Board President, Woods Memorial Library/Museum stating that they were being harassed by activist groups demanding the return the items back to the descendants of the Wounded Knee Creek Massacre. She asked me for advice. In response, I, along with others, traveled to Barre, MA, for a meeting where we met with the entire Board. We discussed the possibilities of them returning the items back to be housed at the Journey Museum, Rapid City, until at such time a proper place could be constructed either at Wounded Knee or some other location. This appeared likely as they accepted an invitation to come to visit the massacre site, the site where the hair lock was placed, and attended a meeting with Journey Museum staff as well as a tour of the facility. They asked time to consider the proposal. Six months had pasted without a word from them. Finally, I was able to contact them, and they informed me that the Board decision could not reach a consensus of agreement. I was told that whenever a decision was reached I would be contacted. I viewed this turn of events as a message of a refusal to allow the items to be returned for unknown reasons to me.

On several occasions I was informed by Ann Meilus, that Woods Memorial Library/Museum had never received any federal funds. Therefore, they were not subject to the Native American Indian Graves and Repatriation Act.

I am filing this allegation to rectify this act of non-compliance to NAGPRA for stolen items, interstate transportation of items, and great injustice to the people of the Chief Big Foot Band, and their descendants.

I allege that Ann Meilus, President, Barre Library Association aka Woodls Memorial Library and Museum, P.O.Box731, Barre, MA, 01005, phone number (978) 355-2289. has failed to comply with the requirements of the Native American Graves Prontection and Repatriation Act (NAGPRA), and I am bringing this allegation to the attention of the Secretary of the Interior through you, and in writing, pursuant to the NAGPRA regulations concerning civil penalties (43 C.F.R. 10.12).

I have read the definition of "receives Federal funds," at 43 C.F.R. 10.2(a)(3)(iii), and I believe that Woods Memorial Library/Museum has received Federal funds. The facts that lead me to this belief are:

- ***Federal funds are transferred to respective states for various activities including purchases of books, and various periodicals, or improvements to the facilities in order to maintain accreditation..***

I have read the definitions of "possession" and "control," at 43 C.F.R. 10.2(a)(3)(i)&(ii), as well as the definitions of the types of Native American cultural items covered by NAGPRA, at 43 C.F.R. 10.2 (d)(1)-(4), and I believe that has possession or control of: Barre Library Association or Woods Memorial Library and Museum, has possession or control of:

- ***4 Navel Cord Pouches, containing human remains, in pouches consisting of turtle design pouches. HUMAN REMAINS.***
- ***17 Sacred Cannupas or pipes. 5 complete with pipe bowl and stem. The remaining missing either parts (stem or bowl). SACRED OBJECTS***
- ***2 Complete pipe bags, never opened. Should include complete pipe. SACRED OBJECTS***
- ***1 Ghost Dancers Shirt, with bead of sweat on the muslin cloth. Blue triangle painted on front side, adorned with eagle feathers. Eagle feather to be considered as a sacred item prohibited by federal law regarding possession. SACRED OBJECT***
- ***1 Child tipi used by girls. Buffalo hide adorned with designs, accompanied by tipi poles of either of choke cherry or red willow. CULTURAL PATRIMONY***
- ***1 Buffalo Hair Ball (Beaded) used in Ceremony for young girls. SACRED OBJECT***
- ***1 Buffalo Horn ladle.OBJECT OF CULTURAL PATRIMONY***
- ***Assortment of Men and women moccasins.OBJECT OF CULTURAL PATRIMONY***
- ***Many other items that would require further investigation***

The fact that lead me to this belief: Woods Memorial Library and Museum, has possession or control of:

All mentioned items listed above were personally seen on August 27, 2007 and the date of the meeting with the Woods Memorial Library/Museum Board of Directors by Myself, Leonard Little Finger; my son, John Little Finger; Lakota Spiritual Leader Richard Broken Nose; Kathleen Price, and Michael Welsh (the later two accompanied us when we viewed the items.

Aside from the above facts, I ***have knowledge*** that written materials exist pertaining to the museum's receipt of Federal funds. I am ***not providing you with any written materials, but with the information that some material may exist regarding the receipt or record of past funding that was received by Woods Memorial Library, still being held by the federal government in their archives or files.***

Aside from the above facts, I ***have knowledge*** that written materials exists pertaining to the museum's possession or control of Native American cultural items. I am ***not providing you with any written materials since Woods Memorial/Library has not provided me with a list of all items taken from the killing field of the Wounded Knee Creek Massacre site. I had requested a list, but they have not complied with my request.***

Aside from the above facts, I ***have knowledge*** that written materials exist pertaining to the museum's failure to comply with specific provisions of NAGPRA. I am ***not providing you with any written materials, but only to state that, I was verbally told that the museum/library HAS NEVER RECEIVED ANY FEDERAL FUNDS.***

I trust you will expeditiously forward this written allegation that the Woods Memorial/Library, Barre, MA. has failed to comply with the requirements of NAGPRA to the enforcement coordinator in the National NAGPRA Program for consideration. Thank you.

Sincerely,

Leonard Little Finger

(b) (6) [redacted]

leonard@lakotacirclevillage.org

THE OGLALA SIOUX TRIBAL COURT	)	
OGLALA SIOUX TRIBE	)	*SS. IN TRIBAL COURT*
PINE RIDGE INDIAN RESERVATION	)	
IN THE MATTER OF THE ESTATE OF:	)	
	)	
CHIEF BIG FOOT,	)	**LETTER OF ADMINISTRATRIX**
a deceased decedent of a member	)	
of the Oglala Sioux Tribe	)	
PETITIONER:	)	
LEONARD LITTLE FINGER,	)	
	)	

The above estate being administered pursuant to OSTC, Chapter 4, Section 55.01 and it being necessary for the Court to appoint an Administratrix.

IT IS HEREBY ADJUDGED AND DECREED: *That the Petitioner is requesting that the Court grant him a Letter of Administratrix on CHIEF BIG FOOT (Deceased), and authorize the petitioner to handle any and all financial, business and personal affairs pertaining to the Estate of Chief Big Foot. That the petitioner is the next of kin and does need to be appointed a Letter of Adminitratrix on CHIEF BIG FOOT so that he can protect the remains of CHIEF BIG FOOT and conduct a proper burial.*

IT IS FURTHER ORDERED: *That the OST Court hereby appoints Leonard Little Finger a Letter of Administratrix on the Estate of: CHIEF BIG FOOT. That, Leonard Little Finger is hereby authorized to conduct all personal, business and financial affairs pertaining to the Estate of CHIEF BIG FOOT.*

Done this 7th day of August, 1998, in the Courthouse of the Oglala Sioux Tribe, County of Shannon, Pine Ridge Agency, State of South Dakota.

BY THE COURT:

Patricia Lee

JUDGE OF THE OGLALA SIOUX TRIBAL COURT

ATTEST:

Joyce M. Goings

CLERK/DEPUTY CLERK OF COURT

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Stephanie Carpenter
Director
Woods Memorial Library and Museum
19 Pleasant Street
P.O. Box 489
Barre, MA 01005

Dear Ms. Carpenter:

Pursuant to 25 U.S.C. 3007 and 43 C.F.R. 10.12(e), this letter serves as notice to the Woods Memorial Library and Museum (Woods Memorial) that a four-count allegation concerning Woods Memorial's failure to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) was filed with the Department of the Interior. Based on an investigation during 2012-2013, I have determined that the four-count allegation is substantiated. In addition, the Department of the Interior wishes to advise you that the National NAGPRA Program is ready to assist Woods Memorial with NAGPRA compliance.

Mr. Leonard Little Finger is a member of the Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota). The Oglala Sioux Tribal Court has recognized Mr. Little Finger as a lineal descendant of Spotted Elk (aka Unpan Glešká or Hupa Glešká), also called Big Foot, a Chief of the Miniconjou Lakota Sioux, who was killed in 1890, along with at least 150 other members of his tribe, during what came to be known as the Wounded Knee Massacre. The Oglala Sioux Tribe is a descendant tribe of the Miniconjou Lakota Sioux. In a letter dated July 16, 2010, Mr. Little Finger alleged that:

1. Woods Memorial is in possession or control of as many as 200 items that, in 1893, it obtained through a donation by Frank Root, a local traveling shoe salesman;
2. The items in question had been taken by U.S. military personnel from the Lakota Sioux and from individuals killed at the Wounded Knee Massacre site;
3. Among the items in question are Native American human remains, including four navel cord pouches with turtle design that contain human remains;
4. Among the items in question are sacred objects, including one shirt adorned with eagle feathers, used in the Ghost Dance, and one beaded buffalo hair ball, used in ceremonies for young girls;
5. Among the items in question are objects of cultural patrimony, including one child tipi made of buffalo hide and adorned with designs, and accompanied by tipi poles of either choke cherry or red willow, for use by girls;
6. Woods Memorial receives Federal funds;

7. Woods Memorial has not completed an inventory of the human remains in question, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(iii);
8. Woods Memorial has not completed a summary for the sacred objects and objects of cultural patrimony in question, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(ii); and
9. Woods Memorial has failed to consult with the Oglala Sioux Tribe, an Indian tribe that is affiliated, or is potentially affiliated, with the human remains, sacred objects, and objects of cultural patrimony in question, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(vii).

The investigation found that:

1. Between November 16, 1990, and November 16, 1993, Woods Memorial received funds from a Federal agency through a grant, loan, contract (other than a procurement contract) or other arrangement by which a Federal agency makes or made available aid in the form of funds, as the term "receives Federal funds" is defined at 43 C.F.R. 10.2(a)(3)(iii), because during that period, Woods Memorial received funds from the Massachusetts Board of Library Commissioners through an arrangement whereby the Massachusetts Board of Library Commissioners receives and passes Federal funds to public libraries, which funds include, but are not limited to, funds from the Institute of Museum and Library Services;[1]
2. Between the time of receipt of these Federal funds and November 16, 1993, the Museum had in its possession, or under its control, Native American human remains, sacred objects, and objects of cultural patrimony, as the terms "possession," "control," "sacred objects" and "objects of cultural patrimony" are defined at 25 U.S.C. 3001(3) and 43 C.F.R. 10.2(a) & (d);
3. Woods Memorial did not complete a summary describing the items in its possession, or under its control, that may be unassociated funerary objects, sacred objects, and objects of cultural patrimony, as required under 43 C.F.R. 10.8, by the November 16, 1993 deadline;
4. Woods Memorial did not complete an inventory of Native American human remains and associated funerary objects in its possession, or under its control, as required under 43 C.F.R. 10.9, by the November 16, 1995 deadline;
5. The Secretary of the Interior did not grant Woods Memorial an extension of time in which to complete an inventory;
6. The Oglala Sioux Tribe is a descendant tribe of the Lakota Sioux; and
7. Woods Memorial did not provide information on the items in question to the Oglala Sioux Tribe.

Based on the above findings, I have made the following determinations with respect to the four-count allegation of failure to comply:

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[1] The investigation also found that on or about March 7, 2011, Woods Memorial received Federal funds, through the State of Massachusetts, in a $25,000 emergency flood grant.

1. **1301_WOODS MEMORIAL LIBRARY AND MUSEUM.** Between November 16, 1990 and November 16, 1993, the Woods Memorial Library and Museum became a "museum" per the definition of the term at 25 U.S.C. 3001(8) and 43 C.F.R. 10.2(a)(3) and, thus, it is required to comply with the requirements of NAGPRA, including the completion of a summary describing the items in its possession, or under its control, that may be unassociated funerary objects, sacred objects, and objects of cultural patrimony following the requirements under 43 C.F.R. 10.8. Woods Memorial's failure to complete a summary that included sacred objects and objects of cultural patrimony by the November 16, 1993 deadline under 25 U.S.C. 3004 constitutes one count of a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(ii).

2. **1302_WOODS MEMORIAL LIBRARY AND MUSEUM.** The Woods Memorial Library and Museum is required to comply with the requirements of NAGPRA, including the completion of an inventory of Native American human remains and associated funerary objects in its possession, or under its control, following the requirements under 43 C.F.R. 10.9. Woods Memorial's failure to complete an inventory by the November 16, 1995 deadline under 25 U.S.C. 3003 constitutes one count of a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(iii).

3. **1303_WOODS MEMORIAL LIBRARY AND MUSEUM.** A museum official must consult with Indian tribe officials and traditional religious leaders that are, or are likely to be, culturally affiliated with unassociated funerary objects, sacred objects, or objects of cultural patrimony. 43 C.F.R. 10.8(d)(1)(ii). Woods Memorial's failure to consult with the Oglala Sioux Tribe on the Lakota Sioux items in Woods Memorial's collection that may be unassociated funerary objects or sacred objects constitutes one count of failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(vii).

4. **1304_WOODS MEMORIAL LIBRARY AND MUSEUM.** A museum official must consult with Indian tribe officials and traditional religious leaders that are, or are likely to be, culturally affiliated with human remains and associated funerary objects. 43 C.F.R. 10.9(b)(1)(ii)(B). Woods Memorial's failure to consult with the Oglala Sioux Tribe on human remains in Woods Memorial's collection that, by a reasonable belief, may be culturally affiliated with the Oglala Sioux Tribe constitutes one count of failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(vii).

Pursuant to 43 C.F.R. 10.12(f), upon receipt of this notice of failure to comply, you may:

1. Within 45 days of the date of service, seek informal discussion with the Secretary of the Interior's designee by contacting NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov); and/or
2. Within 45 days of the date of service, request a hearing to contest this finding; or
3. Within 45 days of the date of service, contact NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov) and waive your right to a hearing.

Procedures for requesting a hearing are set forth at 43 C.F.R. 10.12(j). Failure to file a written request for a hearing within 45 days of the date of service waives your right to a hearing. After

45 days from the date of service, and if no hearing is requested, I am authorized under 43 C.F.R. 10.12(h) to assess a civil penalty against the Woods Memorial Library and Museum for failure to comply with the requirements of NAGPRA. The Woods Memorial Library and Museum has the right to seek judicial review of any final administrative decision assessing a civil penalty.

More information on NAGPRA, as well as the civil penalty hearing and appeal process, can be found in the enclosed copies of 25 U.S.C. 3001-3013 and 43 C.F.R. Part 10. If you have any questions, or would like to initiate an informal discussion of this matter, you may contact NAGPRA Enforcement Coordinator David Tarler. Alternatively, if you take no action, you will hear from this office in approximately eight weeks. If you seek technical assistance on NAGPRA compliance, you may contact National NAGPRA Program Manager Sherry Hutt, at (202) 354-1479.

Sincerely,

Rachel Jacobson
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

cc: Leonard Little Finger
Bryan Brewer, Sr., Tribal Council President, Oglala Sioux Tribe
Charles P. Rose, Esq., Drinker Biddle & Reath LLP

Enclosures: 25 U.S.C. 3001-3013
43 C.F.R. Part 10

Tarler, David <david_tarler@nps.gov>

Woods Memorial Library and Museum, Barre, MA

1 message

landryandmeilus <landmeil@verizon.net> Mon, Dec 30, 2013 at 4:55 PM
To: david_tarler@nps.gov

Please be advised that this office represents Ms. Stephanie Carpenter, the Barre Library Association, and the Barre Museum Association.

Attached is the response to the recently received undated letter from Rachel Jacobson, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks addressed to Stephanie Carpenter as the Director of the Woods Memorial Library and Museum.

If you would like to discuss this matter, please contact me after January 7, 2014 as I will on vacation until then.

Ann E. Meilus, Esquire
Landry & Meilus, LLP
21 Summer Street
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Landry & Meilus, LLP
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Susan M. Landry, Esq. *21 Summer Street, P.O. Box 910* *Ann E. Meilus, Esq.*
Barre, Massachusetts 01005-0910

December 30, 2013

David Tarler, NAGPRA Enforcement Coordinator
United States Department of the Interior
Office of the Secretary
Washington, DC 20240

RE: Woods Memorial Library and Museum, Barre, Massachusetts

Dear Mr. Tarler:

Please be advised that this office represents Ms. Stephanie Carpenter, the Barre Library Association, and the Barre Museum Association.

I am writing with regard to the recently received undated letter from Rachel Jacobson, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks addressed to Stephanie Carpenter as the Director of the Woods Memorial Library and Museum. This notice is extremely puzzling. The Woods Memorial Library is a place, not an entity. There is the Barre Museum which is located within the physical place of the Woods Memorial Library. Ms. Carpenter is an employee of the Town of Barre, which runs the Town's library at the place known as the Woods Memorial Library.

The Barre Library Association owns the physical building and, until 2009, owned the Native American artifacts located in the Barre Museum. It is my understanding that in 2009 the Native American artifacts were transferred to the Barre Museum Association.

If the Town of Barre accepted federal funds for the library, it is our position that NAGPRA would not be invoked because the Town of Barre does not own and never has owned the artifacts.

Further, it is my understanding that, according to the records of the Barre Library Association and the Barre Museum Association, neither association has received federal funds; therefore, NAGPRA would not be invoked.

Please clarify to whom and for what federal funds were received so that we may resolve this issue.

Telephone: (978) 355-2289 / (508) 882-3403
Fax: (978) 355-6448

My clients are willing to discuss this matter informally; however, they reserve their rights to a hearing.

Please note that I am unable to forward copies of this letter to Leonard Little Finger, Bryan Brewer, Sr., Tribal Council President, Oglala Sioux Tribe, and Charles P. Rose, Esquire, Drinker Biddle & Reath LLP, as their contact information has not been provided.

Thank you for your attention in this matter.

Very truly yours,

Ann E. Meilus

AEM/mwc

cc: Stephanie Carpenter
Barre Library Association
Barre Museum Association

HAMILTON COUNTY PARKS AND RECREATION DEPT.

Miami Tribe of Oklahoma

P.O. Box 1326–Miami, Oklahoma 74355
Ph: 918-542-1445 Fax: 918-542-7260

National Park Service
AUG 13 2012
Office of the Director

VIA FEDERAL EXPRESS

August 10, 2012

Mr. Jonathan B. Jarvis, Director
National Park Service
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: ***Notice of Failure to Comply with Native American Graves Protection and Repatriation Act, of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58***

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park

Dear Mr. Jarvis:

Please allow me to introduce myself to you through this correspondence. My name is Thomas Gamble and I serve as Chief of the Miami Tribe of Oklahoma, a federally recognized, sovereign tribal government. Pursuant to the Native American Graves Protection and Repatriation Act of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58 (NAGPRA) and the NAGPRA implementing regulations, specifically 43 C.F.R. Part 10.12, I am submit the following as a formal notice of failure to comply. Specifically the following notice provided on behalf of the Miami Tribe of Oklahoma alleges at least 24 instances in which Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park, 15513 S. Union Street, Carmel, Indiana, 317-770-4400 has failed to comply with the requirements of the NAGPRA The Miami Tribe of Oklahoma requests that you make a determination both with respect to the failure to comply and whether a civil penalty action is appropriate in light of the circumstances alleged in the.

Preliminary Matters

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park "receives Federal funds" within the meaning of 43 C.F.R. 10.2(a)(3)(iii) based on the fact disclosed on the Hamilton County website(www.hamiltoncounty.in.gov), to wit American Recovery and Reinvestment Act funds allocated to Hamilton County for $6,657,616 through 2012 and Community Development Blocks Grants for Neighborhood Stabilization Program of $2,343,868 ***(see attached documents).*** On information and belief, the Hamilton County, Indiana has received additional Federal funds that are not disclosed on its website.

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park has "possession" and "control" within the meaning of 43 C.F.R. 10.2(d)(1) – (4) of Native American cultural items covered by the NAGPRA, including human remains and associated funerary objects recovered from archeological investigations carried out from 2001 to 2011 at Strawtown Koteewi Park/Hamilton County Parks and Recreation Department, Hamilton County, Indiana. Attached hereto as Appendix __ in support of this contention is the human remains inventory reports titled *"Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park by the Year and Site."* Report numbers ROI 216, ROI 301, ROI 401, ROI 502, ROI 514, ROI 604, ROI 701, ROI 803, ROI 902, ROI 1001, ROI 1101 reflect research completed by Indiana University Purdue University Fort Wayne (IPFW) – Archaeology Survey for compliance with grants from the National Park Service Historic Preservation Fund administered by the Indiana Department of Historic Preservation and Archaeology and the National Science Foundation.

Failure to Comply Allegations

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Parks has failed to comply with specific provisions of NAGPRA within the meaning of 43 C.F.R. 10.12(b)(1)(i) – (viii) as follows:

(1) - 43 C.F.R. 10.12 (ii) After November 16, 1993 has not completed a summary as required by the Act for a burial vessel intentionally excavated from the Strawtown Enclosure site at Strawtown Koteewi Park in 2007 ***(See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne – Archaeology Survey).***

(2) – 43 C.F. R. 10.12 (vi) Repatriated human remains, funerary object, sacred object, or object of cultural patrimony before publishing the required notice in the Federal Register; to wit Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park repatriated/reburied the burial vessel disinterred from the Strawtown

Enclosure site at Strawtown Koteewi Park (***See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne – Archaeology Survey***).

(3) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred Strawtown Koteewi Park in 2001 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(4) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2002 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(5) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2003 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(6) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2004 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(7) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton county-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2005 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(8) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2006 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(9) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered from Strawtown Koteewi Park in 2007 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(10) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2008 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(11) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2009 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(12) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains disinterred from Strawtown Koteewi Park in 2010 as required by the Act.

(13) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with the Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the repatriation/reburial of a burial vessel intentionally excavated in 2007 and reburied in 2008.

(14) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2001.

(15) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe

of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2002.

(16) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2003.

(17) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2004.

(18) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2005.

(19) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2006.

(20) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2007.

(21) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders;

to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2008.

(22) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2009.

(23) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2010.

(24) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Miami Tribe of Oklahoma, a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2011.

Attached hereto in support of this Notice of Failure to Comply are: 1) Copies of the Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park by the Year and Site, copies of all National Park Service Historic Preservation Fund Grant Reports from 2001 to 2011 including all human remains appendices and pictures from the reburial of the burial vessel from 2008. (Appendix A); 2) written materials pertaining to the museum's receipt of Federal funds. (Appendix B); 3) written materials exist pertaining to the museum's possession or control of Native American cultural items. (Appendix C); and 4) photographs of the reburial of the disinterred urn, (Appendix D). If additional materials are discovered that are relevant to this Notice of Failure to Comply, they will be promptly submitted.

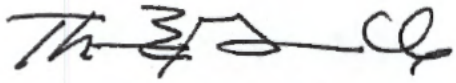
Request for Relief

Based on the foregoing, the Miami Tribe of Oklahoma requests that the Secretary conduct an appropriate inquiry and reach a determination whether Hamilton County, Indiana Hamilton County Parks and Recreation Department/Strawtown

Koteewi Park have failed to comply with NAGPRA and a determination regarding whether a civil penalty action is appropriate.

Please forward this Notice to the Enforcement Coordinator in the National NAGPRA Program for consideration and to affected and interested parties consistent with federal regulation. If you have any questions regarding this Notice or require any additional information relative to it, please contact George Strack, Tribal Historic Preservation Officer for the Miami Tribe of Oklahoma, at (317)625-1288 and/or by email at gstack@miamination.com. Thank you.

Sincerely,



Thomas E. Gamble, Chief
Miami Tribe of Oklahoma

APPENDIX A

Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park, by Year and Site

Cat. No.	Provenience	Element	Age
2001 (ROI 216, Accn. No 01.71), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
01.71.4.3	Unit A, 28-38 cmbd	Second incisor, heavily worn	Adult
01.71.3.4	Unit A, 38-48 cmbd	Possible cranial fragment, burned	
01.71.6.3	Unit B, 65 cmbd	Right mandible fragment, distal up to canine	Adult (F)
01.71.12.7	Unit I, 100-110 cmbd	First right premolar	Adult
01.71.2.3	Unit O, 40-50 cmbd	First incisor, heavily worn	Adult
01.71.52.0	Feature 1, 58-88 cmbd	Possible cranial fragment, burned	
2002 (ROI 301, Appendix K, Accn. No 02.68), Strawtown Enclosure, 12H883			
316	Feature 1	Lone bone shaft fragment	Human/Bear
448	Feature 2	Long bone shaft	Human
830	Feature 6, SW ½	Right temporal	Human
859	Feature 2	Lone bone shaft fragment	Human
955	Feature 6a, Level 5	Occipital	Human
966	Feature 6a, Zone 3	Long bone shaft fragment	Human
2968	Unit 9, Level 2	Cranial vault fragment	Human
2768	Unit 11, Level 3	Long bone shaft cf. radius	Human
3184	Unit 22, Level 4	Cranial vault fragment	Human
3338	Unit 21, 38-50 cmbd	Cranial vault fragment	Human
1904	Groundhog Hole	22 shaft fragments, 6 cranial vault fragments, 1 pelvis fragment, Right temporal fragment	Human
2003 (ROI 401), Strawtown Enclosure, 12H883, and Castor Farm, 12H3			
Human Remains from Castor Farm, 12H3, Accn. No. 03.50			
03.50/127	Unit G, Burial 1, 42-46 cmbd		Adult (M)
03.50/154	Unit N, Burial 2, Level 1		Adult (M)
03.50/170	Burial 1, Unscreened	Bone Sample	Adult (M)
03.50/171	Burial 2, Unscreened	Cranial Bone Sample	Adult (M)
03.50/172	Burial 3-1	Cranial Bone Sample, Sample 1	Juvenile-8 years
03.50/173	Burial 3-2	Cranial Bone Sample, Sample 2	Subadult-15 years
03.50/174	Burial 3-3	Cranial Bone Sample, Sample 3	Juvenile-<4 years
03.50/175	Burial 3-4	Cranial/Teeth Bone Sample, Sample 4	Infant, ~6 months
03.50/176	Burial 3-5	Mandible/Teeth Bone Sample, Sample 5	
03.50/191	Unit C, Feature 3 SW 1/4,	3rd Metatarsal	

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Cat. No.	Provenience	Element	Age
	Level 2, 61-71 cmbd		
03.50/307	Unit F, Feature 6 E ½, Level 1, 71 cmbd		
03.50/502	Unit N/L, Feature 16, 50-70 cmbd		
03.50/516	Unit K, Feature 13, Level 2, 65-71 cmbd		
03.50/638	Unit M/V, Feature 22 NE ½, Level 1, 65-121 cmbd		
03.50/677	Unit V, Feature 22 SW ½, Zone 1, 65-90 cmbd	Cervical Vertebra	
03.50/783	SVS Unit N411 E130, Levels 1-3, 0-36 cmbs	Burned	
03.50/845	N469 E114, Level 1, 50-56 cmbd	Molars	
03.50/923	Unit K, Level 1, 43-61 cmbd	Burial 1 fragments	
03.50/938	Burial 1, Unit K, Level 1, 53-62 cmbd		Adult (M)
03.50/990	Unit K, Level 2, 56-73 cmbd		
03.50/1021	Burial 2, Unit L, Level 1, 49 cmbd		Adult (M)
03.50/1757	Unit R, Level 3, W ½, Zone B, 71-79 cmbd		
03.50/2015	Unit W, Level 3, 68-80 cmbd		
03.50/2168	Flot, Unit C, Feature 5, Zone 4, 100.5-103.5 cmbd		
	Human Remains from Strawtown Enclosure, 12H883, Accn. No. 03.72		
03.72/1693	Unit 53, Level 1, 100-116.5 cmbd	Burial 1, Burial fill	
03.72/1775	Unit 57, W ½, Level 4, 100-110 cmbd		
03.72/2346	Unit 63, Level 3, 90-100 cmbd		
03.72/2967	Feature 18/Burial 2, SW ½, 100-113.5 cmbd	Long bone	Infant
03.72/3025	Feature 22/Unit 53/Burial 1, Level 1, 114 cmbd	Bone Sample 1	
03.72/3026	Feature 22/Unit 53/Burial 1, Level 1, 114 cmbd	Bone Sample 2	
03.72/3351	Feature 24, W ½, 110-166 cmbd		
	2004 (ROI 502, Accn. No. 04.62), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park		
04.62/217	Surface	Skull fragment	Unid.
04.62/458	Feature 27	Left tibia	Juvenile
04.62/459	Feature 27	Right distal femur shaft	Adult
04.62/460	Feature 27	Right proximal ulna	Adult (M)
04.62/461	Feature 27	Right mandible (refits left mandible recovered in 2005, #1714)	Adult

Cat. No.	Provenience	Element	Age
04.62/462	Feature 27	Tibia shaft, reactive bone	Adult
04.62/463	Feature 27	Right proximal humerus	Adult
04.62/464	Feature 27	Left os coxae	Adult (M)
04.62/465	Feature 27	Left os coxae	Adult (F)
04.62/466	Feature 27	Right hamate, scaphoid, metacarpals, phalanges	Adult
04.62/467	Feature 27	Left lunate	Adult
04.62/468	Feature 27	First distal foot phalange, left	Adult
04.62/798	Feature 27	Left distal humerus	Adult
04.62/835	Unit 27	Cranial fragments	
04.62/857	Unit 25	Molar fragment	Adult
04.62/911	Unit 31	Two cranial fragments and lower right medial incisor	Adult
04.62/935	Unit 33	Cranial fragment	
04.62/1108	Units 52-55,61-64, Lvl 3 Block Scrape	Two Teeth	
04.62/1448	Feature 27	Upper left third premolar, upper right fourth premolar	Adult
04.62/1794	Feature 27	Lower right first molar, upper right lateral incisor	Adult
04.62/1928	Feature 27	Phalanges: 1 fifth proximal; 1 fifth medial; 1 unidentified	Adult
04.62/2034	Feature 27	Right lunate	Adult
2004 (ROI 502, Accn. No. 04.83), Human Remains from Strawtown Enclosure, 12H883			
04.83/593	Unit 23, Level 2, 60-70 cmbd	First incisor, Lower right; Ri1	
2005 (ROI 514, Accn. No. 05.61), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park			
318	Feature 47	Lower right first premolar	Young adult
359	Feature 47	Right distal ulna	Adult
384	Feature 47	Two cranial fragments	Adult
405	Feature 48	Cranial fragment	
643	Unit 117, Lvl. 2	Upper left incisor	Adult
1037	Feature 27	Rib	Adult

Cat. No.	Provenience	Element	Age
1038	Feature 27	Right humerus	Adult
1039	Feature 27	Left humerus	Adult
1262	Feature 27	Upper right second premolar	Young adult
1396	Feature 27	Tooth fragment	Adult
1424	Feature 27	Cervical vertebra (C7)	Adult
1504	Feature 27	Lower left molar	Young adult
1592	Feature 27	Lower right second molar	Adult
1606	Feature 27	Right distal ulna	Adult
1690	Feature 27	Left proximal fibula	Adult
1714	Feature 27	Left mandible, 2 fragments (refits right mandible recovered in 2004, #461)	Adult (M)
1804	Feature 27	Premolar (refits right mandible recovered in 2004, #461)	Adult (M)
2006 (ROI 604, Accn. No. 06.10) Human Remains from Castor Farm, 12H3			
06.1/918	N435 E120, STP 4	Tooth, Lower premolar	
2006 (ROI 701/ Accn. No. 06.98), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
226	Unit 89, 60-70 cmbd	Lower left central incisor	Adult
971	Unit 97, 70-80 cmdb	Lower right incisor, deciduous	Subadult
1666	Unit 103, 60-70 cmbd	First right upper incisor	
1699	Unit 103, 70-80 cmbd	Two incisors, upper right and left	
1718	Unit 103, level 4	Two humerus head fragments	
1861	Unit 105, Level 3	Lower left canine	
3924	Unit 103, Feature 39	Cranial fragment	
3925	Unit 103, Feature 39	Rib fragment	
2007 (ROI 803, Accn. No. 07.5), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
3255	Unit 132, 70-80 cmbd	Upper left incisor, cut marks on root	
1350	Unit 138, 50-60 cmbd	Lower incisor	
1731	Unit 142, 60-70 cmbd	Lower right canine	
2854	Feature 33, 95-131 cmbd	Lower canine root	
2008 (ROI 902, Accn. No. 08.1), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			

Cat. No.	Provenience	Element	Age
815	Unit 158, 60-70 cmbd	Upper premolar	Adult
2009 (ROI 1001, Accn. No. 09.2), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park			
2391	Unit 163, 95-119 cmbd	Upper second molar	
1550	Unit 148, 95-119 cmbd	Right humerus shaft	
3407	Unit 160, 95-105 cmbd	Tibia shaft fragment	
2010 (ROI 1101, Accn. No. 10.1), Strawtown Enclosure, 12H883, Temporary Curation: Strawtown Koteewi Park			
2116	Unit 187, level 1	Right femur fragment	Neonate
2535	Unit 191, level 3	Left upper molar and unidentified fragment	
5685	Unit 212, level 5	Right femur, 4 fragments	Infant
2951	Feature 33	Left tibia fragment	Infant
6566	Feature 67, strat 9	Seven phalanges, 1 metacarpal	Adult
6643	Feature 67	Foot phalange	Adult
6718	Feature 67, strat 12	Nine bone spalls	
7528	Feature 67, strat 10	Rib fragment	Adult
3395	Feature 69, level 6	Ilium in 2 fragments	Infant
4988	Feature 70	Lower left canine	
7260	Feature 71	Left humerus, 10 fragments	Adult
2011, (ROI 1201, Accn. No. 11.3), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park			
	Feature 27	Left humerus	Adult (F?)
	Feature 27	Right mandible fragment with molar	Adult
	Feature 27	Molar	Adult
	Feature 27	Right radius, proximal phalange	Adult
	Feature 27	Upper second premolar	Young adult
	Feature 27	Molar, either second or third	Young adult
	Feature 27	Left humerus	Adult (M)
	Feature 27	Unidentified large bone, possibly human	
	Unit 204, Structure 2	Foot phalange	
	Feature 27, PH 27-188	Unidentified large bone, possibly human	
	Feature 27, PH 27-202	Tibia	Neonate

Cat. No.	Provenience	Element	Age
1361	Feature 84, Unit 209, Structure 2	Molar	
2556	Feature 27, Level 4/5		
	2011, (ROI I201, Accn. No. 11.1), 12H1052, Temporary Curation: Strawtown Koteewi Park		
87	Unit 10	Phalange	

Hamilton County, Indiana

Recovery Act Projects Summary

Project Description:	Estimated Total Cost:	ARRA Funds to be used:	Lead Agency
Rehabilitate Runway - 18/36	$4,315,789	$3,408,000	Hamilton County Airport Authority
CDBG-R: Community Development Block Grant Amendment for Additional Funds Details		$214,753	Noblesville Housing Authority
Justice Assistance Grant : Portable Courtroom Evidence Presentation System Application for Grant(pdf)	$22,000	$22,000	Hamilton County Circuit and Superior Courts
Mule Barn Rd. Asphalt Overlay (S.R. 32 to S.R. 47)	$448,766.77	$448,766.77	Hamilton County Highway Department
Bridge 611 -Bridge Rehabilitation (Cumberland Rd. over White River)	$474,358.90	$474,358.90	Hamilton County Highway Department
146th St. Asphalt Overlay (Boone Co. Line to Ditch Rd.)	$358,934.80	$318,757.44	Hamilton County Highway Department
146th St. Asphalt Overlay (Ditch Rd. to Springmill Rd.)	$129,866.87	$116,957.42	Hamilton County Highway Department
116th St. Asphalt Overlay (White River Bridge to .35 mi. E. of Eller Rd.) Olio Rd. Asphalt Overlay (Geist Reservoir Bridge to 126th St.)	$560,671.84	$551,427.86	Hamilton County Highway Department
Olio Rd. Asphalt Overlay (126th St. to 136th St.)	$278,867.12	$274,126.62	Hamilton County Highway Department

234th St. Asphalt Overlay (Cicero Town Limits to Overdorf Rd.)	$240,951.23	$237,396.38	Hamilton County Highway Department
Homeplace Trails (106th St. & College Ave.)	$236,443.05	$219,450.00	Hamilton County Highway Department
146th St. Trails (Cherry Tree Rd. to River Rd.)	$157,551.63	$144,247.00	Hamilton County Highway Department
Cumberland Rd. Asphalt Overlay (96th St. to 106th St.) Towne Rd. Asphalt Overlay (96th St. to 116th St.)	$241,933.26	$227,379.92	Hamilton County Highway Department

Contact Us

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- Office Fax: (317) 776-8454

News & Notices

- 05/28/2012
  County Holiday - Memorial Day

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APPENDIX B

Hamilton County, Indiana

CDBG-R Project Details

CDBG-R is the CDBG portion of the ARRA funds. The County Commissioners received an allocation of $214,753.

- $161,066 is being used for infrastructure projects in eligible census tracts,
- $32,212 is being used to assist eligible households impacted by the recession with emergency rent, mortgage and/or utility payments and
- the remaining 10% is to administer the program.

The Noblesville Housing Authority will be the lead agency administering the program.

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- 05/28/2012
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Additional Docs

- PRR 4th Q 09 report
- PRR 1st Q 10 Report
- CDBG-R amendment

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APPENDIX C

June 14, 2012

List of Artifacts from Strawtown Koteewi Park Burials

A comprehensive list of burials and associated, or potentially associated, artifacts are provided from Strawtown Koteewi Park archaeological sites. These include the Strawtown enclosure (12H883), Castor Farm (12H3), and 12H1052 sites. Artifact information was garnered from the IPFW-AS Strawtown database in a Microsoft Access format and from grant reports.

Each section below contains a list of burials and artifacts. Any artifact that can be reasonably associated with a burial is noted. When a feature contained an interment, a reasonable presumption is that artifacts from the feature fill should be included if requested for repatriation. IPFW-AS willingly acknowledges the desires by the Oklahoma Miami for repatriation of human remains and objects, and will concur and support their desires for return of any object or remains previously excavated. This list of items should not be considered conclusive, but is a starting point for consideration during the consultation process. Each burial is listed below with the field specimen number, the feature or burial number, and the associated catalog numbers. Items highlighted in red were artifacts that were definitely identified as associated funerary objects.

2001 Strawtown Enclosure (12H883), Accession Number 01.71, Report of Investigation 216

Six catalog numbers were identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2001 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2002 Strawtown Enclosure (12H883), Accession Number 03.68, Report of Investigation 301

The database and the ROI 301 report have no record of human remains. However, Appendix K of the ROI 301 report contains a list of human remains identified by Rexford Garniewicz. A number of isolated human remains were encountered during the 2002 excavations at the Strawtown Enclosure site. Also, a number of human remains were collected from the backdirt of an active groundhog hole within the enclosure, resulting from an apparent nearby burial.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document.

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JUL 2 7 2012

2003 Castor Farm (12H3), Accession Number 03.50, Report of Investigation 401

A number of isolated human remains were encountered during the 2003 excavations at the Castor Farm site. Additionally, three separate burials were exposed during excavation. These consisted of Burial 1, a partially flexed individual; Burial 2, a partially flexed individual; and Burial 3, a large bundle burial with the remains of at least five individuals.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document.

Burial 1 was located in Units G and K and interred within an obvious excavated burial pit. Feature 13 was located in close proximity, near the feet. The written description of Feature 13 indicates that it is likely associated with Burial 1 based on the presence of two abraders and two complete beamers. The contents of this feature could also be considered grave goods and may be requested for repatriation with the burial. Other possible associated artifacts are presented in the following table.

Burial 1 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
185	127-128	Burial 1
217	922-923	Burial 1
229	933-947	Burial 1
232	977-986	Burial 1 Pit Fill
267	129-142	Burial 1 Pit Fill, Cat 129 Beamer
436	170	Burial 1

Field Specimen (FS) Number	Catalog Numbers	Remarks
276	514-551	Feature 13, artifacts
276	533,534	Feature 13, beamers
276	532,551	Feature 13, abraders
293	2295-2302, 2470, 2541, 2592	Feature 13 flot artifacts, heavy/light fraction

Burial 2 was located in Units L and N and interred within a partially identified burial pit. The contents of the burial pit should likely be considered grave goods and repatriated.

Burial 2 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
227	1020-1027	Burial 2
314	143-155	Burial 2
335	158, 160-169	Burial 2
354	1066-1067	Burial 2/3

Burial 3 was located the northeast corner of Unit L. It was a bundle burial containing at least five individuals based on the presence of five crania and assorted long bones. Several items from Burial 3 are included and should be considered for repatriation.

Burial 3 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
332	156-157	Burial 3
438-443	171-176	Bone Samples from Burial 3

2003 Strawtown Enclosure (12H883), Accession Number 03.72, Report of Investigation 401

A number of isolated human remains were encountered during the 2003 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavation. These consisted of Burial 1 (Feature 22), a bundle burial; and Burial 2 (Extension of Feature 18), an infant interment.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items are provided in the attached document

Burial 1 (Feature 22) was located in Unit 53 and consisted of a bundle burial containing several long bones from a single individual. No specific items were defined as associated with the burial but all artifacts excavated from Feature 22 are included in the table below.

Burial 2 (Feature 18) was located immediately south of Feature 18 and identified as a projection. It consisted of an infant interment; no burial pit could be identified.

Burial 1 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
200	1692-1698	Burial 1 fill
135	1773-1804	Burial 1
142	2325-2353	Burial 1
201	30, 137-139, 1615-1621, 1644-1698, 3025-3026, 3488	Burial 1

Burial 2 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
134	5, 29, 133-136, 2962-2974, 3487	Burial 2

2004 Castor Farm (12H3), Accession Number 04.62, Report of Investigation 502

A number of isolated human remains were encountered during the 2004 excavations at the Castor Farm site. Additionally, one burial was partially exposed during excavation. This consisted of an interment in Feature 31.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically

encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

A poorly understood burial was partially exposed during Feature 31 excavation.

Feature 31 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
714	436	Shell pendant
716	2050	Feature 31
719	1352-1360	Feature 31
729	95, 170, 720-727	Feature 31
732	35, 97, 172, 739-744	Feature 31

2004 Strawtown Enclosure (12H883), Accession Number 04.83, Report of Investigation 502

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2004 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2005 Castor Farm (12H3), Accession Number 05.61, Report of Investigation 514

A number of isolated human remains were encountered during the 2005 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

2006 Castor Farm (12H3), Accession Number 06.10, Report of Investigation 604

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2006 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2006 Strawtown Enclosure (12H883), Accession Number 06.98, Report of Investigation 701

A number of isolated human remains were encountered during the 2006 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavation. These consisted of Feature 38, a bundle burial; and Feature 39, a tightly-flexed interment.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically

encountered during construction of houses, storage pits, postholes, etc. A list of these items are provided in the attached document

Feature 38 consisted of a bundle burial containing eight long bones from a single individual. No specific items were defined as associated with the burial but all artifacts excavated from Feature 38 are listed in the table below. All excavated bone was replaced in Feature 38 prior to excavations being backfilled.

Feature 39 consisted of a tightly-flexed individual with a partially identified burial pit. All artifacts, including those from levels 3, 4, and 5 directly above the feature are included in the table below. A broken pestle was located near the edge of the burial pit and is included as an associated funerary object.

Feature 38 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
202	3867-3899	Feature 38
184	3900-3913	Feature 38
201	4051-4066, 4097, 4113, 4123	Feature 38

Feature 39 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
228	3914-3922	Feature 39
231	3923	Feature 39
232	3924	Feature 39
233	3925	Feature 39
76	1655-1693	Feature 39
132	1694	Feature 39, piece plot sherd
218	1695	Feature 39, Ground stone pestle
151	1696-1715	Feature 39
152	1716-1731	Feature 39
208	3534	Feature 39

2007 Strawtown Enclosure (12H883), Accession Number 07.5, Report of Investigation 803

A number of isolated human remains were encountered during the 2007 excavations at the Strawtown Enclosure site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited, or discarded, after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. Additionally, two interments were encountered during excavation, one each in Features 46 and 48.

One interment was encountered in Feature 46 in the central portion of the plaza. An associated funerary object, a shell-tempered Taylor Village-style vessel was removed, studied, and then replaced in the burial. It is presumed that all artifacts encountered in the excavation unit, excluding historic items, were associated with the burial and should be considered for repatriation. These items are listed in the table below.

Feature 48 was identified in the south profile wall of the main excavation block. It was a bundle burial containing long bones and a cranium. Upon discovery, no further work was completed and no effort to further expose the individual was undertaken. A list of artifacts from this feature is included in the table below.

Feature 46 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1	8-17	Unit 121
16	18-24	Unit 121
6	29-33, 35	Unit 122
17	36-44	Unit 122
7	50-55, 58-59	Unit 123
13	60-66	Unit 123
2	69-75	Unit 124
12	77-80	Unit 124
52	2623	Bear tooth
22	371-378	Feature 46
23	379	Feature 46, piece plot bear mandible
295	2952-2954	Feature 46
298	2955-2958	Feature 46
294	3645	Feature 46, Heavy fraction
292	2959	Unit 152
279	2499-2503	Unit 152
280	2504-2506	Unit 152
295	2952-2954	Unit 152

Feature 48 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
56F	3607-3612	Feature 48, Unit 97, Level 5, Flot

2008 Strawtown Enclosure (12H883), Accession Number 08.1, Report of Investigation 902

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2008 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2009 Castor Farm (12H3), Accession Number 09.2, Report of Investigation 1001

Three isolated human remains were encountered during the 2009 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document.

Additionally, two burials were partially exposed during excavation and one feature contained disassociated human elements. Feature 81/Posthole 86 contained an infant skull; Feature 80 had three separate human elements and few artifacts; and Feature 68 was partially exposed in Unit U

until human elements were identified amongst the feature debris, at which point excavation was halted and all bone placed back within the feature. A list of all artifacts is provided in the table below.

Feature 80 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1220	3623-3626	Feature 80, 5 artifacts

Feature 81/Posthole 86 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1212	3627-3630	Feature 81
1219	3631	Feature 81, Vessel section
1213	3661-3664	Feature 81

Feature 68 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1097	3588-3592	Feature 68

2010 Strawtown Enclosure (12H883), Accession Number 10.2, Report of Investigation 10.1

A number of isolated human remains were encountered during the 2010 excavations at the Strawtown Enclosure site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited, or discarded, after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. Additionally, three interments were encountered during excavation, one each in Features 67, 72, and 74.

One interment was encountered in Feature 67 near the base of a large, deep storage pit. The individual was apparently covered with peeled bark. A number of associated funerary objects were identified within close proximity to this individual. These were photo-documented and replaced. Concerning the artifacts, at least two differing interpretations may be offered regarding association. One is that all artifacts recovered from Feature 67 could be considered associated with the burial and should be repatriated. A secondary interpretation is that all artifacts located below the 'Bark Layer' are associated funerary objects and should be repatriated. These items are listed in the table below and should be discussed as part of consultation with the Miami of Oklahoma.

A second and third interment was partially exposed in Features 72 and 74 during excavation. Upon discovery, no further work was completed and no effort to further expose the individuals was undertaken. A list of artifacts from these features is included in the tables below.

Feature 67 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
88	5356-5370	Unit 169, Level 5
99	6285-6290, 6721-6722	Unit 169, Level 5
35	5371-5404	Unit 171, Level 4

107	5405-5430, 5447	Unit 171, Level 5
107	5446	Unit 171, Scribed Elk Scapula
45	5431-5444	Unit 177, Level 4
119	5448-5468	Unit 177, Level 5
58	5472-5491	Unit 178, Level 4
124	5492-5510	Unit 178, Level 5
192	5956-6028	Feature 67, E ½, 80-130 cmbd
222	6044-6098	Feature 67, E ½, 130-167 cmbd
295	6099-6218	Feature 67, E ½, 167-233 cmbd
372	6265	Feature 67, E ½, piece plot rim sherd
373	6266	Feature 67, E ½, organics
384	5811	Feature 67, W ½, Strat 1 soil sample
384	6319-6329, 6723-6724	Strat 1 Flot
385	6291-6318, 6751-6752	Strat 1 Waterscreen, Hvy Fraction
386	5812	Feature 67, W ½, Strat 2 soil sample
386	6345-6347, 6725-6726	Strat 2 Flot, Lgt/Hvy Fraction
387	6330-6344, 6755-6756	Strat 2 Waterscreen, Hvy Fraction
391	5813	Feature 67, W ½, Strat 3 soil sample
391	6370-6373, 6727-6728	Strat 3 Flot, Lgt/Hvy Fraction
392	6348-6369, 6757-6758	Strat 3 Waterscreen, Hvy Fraction
397	5814	Feature 67, W ½, Strat 4 & 4a, Soil sample
397	6390-6403, 6729-6730	Strat 4&4a, Flot, Lgt/Hvy Fraction
398	6374-6389, 6753-6754	Strat 4&4a Waterscreen, Hvy Fraction
399	5815	Feature 67, W ½, Strat 5, Soil Sample
399	6445-6460, 6733-6734	Strat 5, Flot, Lgt/Hvy Fraction
400	6404-6431, 6759-6760	Strat 5, Waterscreen, Hvy fraction
412	5816	Feature 67, W ½, Strat 5, Soil Sample
412	6432-6444, 6731-6732	Strat 5, Flot, Lgt/Hvy fraction
413	6269	Feature 67, W ½, Strat 6, piece plot
414	5817	Strat 6 soil sample
414	6467-6489, 6735-6736	Strat 6, Flot, Lgt/Hvy fraction
415	6461-6466, 6761-6762	Strat 6, Waterscreen, Hvy fraction
420	5818	Feature 67, W ½, Strat 7, Soil sample
420	6492-6495, 6737-6738	Strat 7, Flot, Lgt/Hvy fraction
423	6490-6491	Waterscreen
424	5819	Feature 67, W ½, Strat 8, Soil sample
424	6536-6546, 6739-6740	Strat 8, Flot, Lgt/Hvy fraction
425	6496-6535, 6763-6764	Strat 8, Waterscreen, Hvy fraction
426	5820	Feature 67, W ½, Strat 9, Soil sample
426	6613-6618,6741-6742	Strat 9, Flot, Lgt/Hvy fraction
427	6547-6612, 6769-6770	Strat 9, Waterscreen, Hvy fraction
429	5821	Strat 9, Soil Sample
429	6619-6626, 6743-6744	Strat 9 Flot, Lgt/Hvy fraction
445	5822	Strat 9 Soil sample
445	6627-6633, 6745-6746	Strat 9 Flot, Lgt/Hvy fraction
475	6270	Strat 9 Flora
485	6634-6643, 6765-6766	Bark Layer, Waterscreen, Hvy fraction
530	5827	Feature 67, W ½, Strat 11, Soil sample
530	6663-6670, 6747-6748	Strat 11 Flot, Lgt/Hvy fraction
533	6644-6662, 6767-6768	Strat 11&12, Waterscreen, Hvy fraction
531	5828	Feature 67, W ½, Strat 12, Soil sample
531	6671-6720, 6749-6750	Strat 12, Flot, Lgt/Hvy fraction
532	6272-6284, 7528	Strat 12, Hand Collected

Feature 72 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
102	7298-7307	Feature 72
198	7308-7318	Feature 72

Feature 74 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
337	7342-7345	Feature 74
338	7358-7374	Feature 74
346	5810	Feature 74, Soil sample
346	7015-7021, 7013-7014	Flot, Lgt/Hvy fraction
347	7346-7357	Feature 74
471	7375-7386	Feature 74

2011 Castor Farm (12H3), Accession Number 11.3, Report of Investigation 1201

A number of isolated human remains were encountered during the 2011 excavations at the Castor Farm site. Additionally, one burial was partially exposed during excavation. This consisted of an interment in Feature 84 (Structure 2).

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

A poorly understood burial was partially exposed during Feature 84 excavation. Upon encountering the burial, excavation was halted and no further effort was attempted to expose the elements. No associated funerary objects were recovered during excavation.

2011 Site 12H1052, Accession Number 11.1, Report of Investigation 1201

One catalog number was identified and assigned to human remains elements or fragments, located in an excavation unit. One interment was encountered during the 2011 excavation year in Feature 19. Upon identification as human remains, excavation was halted and all artifacts and bone was placed back with the feature. No associated artifacts are listed here and the list of human remains is provided in the attached document.

APPENDIX D

SHAWNEE TRIBE

P.O. BOX 189 ✦ MIAMI, OK 74355
918-542-2441 ✦ FAX: 918-542-2922

National Park Service
SEP 12 2012
Office of the Director

VIA FEDERAL EXPRESS

August 31, 2012

Mr. Jonathan B. Jarvis, Director
National Park Service
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: Notice of Failure to Comply with Native American Graves Protection and Repatriation Act, of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park

Dear Mr. Jarvis:

The Shawnee Tribe is a federally recognized Tribe in the State of Oklahoma. Pursuant to the Native American Graves Protection and Repatriation Act of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58 (NAGPRA) and the NAGPRA implementing regulations, specifically 43 C.F.R. Part 10.12, I am submitting the following as a formal notice of failure to comply. Specifically the following notice provided on behalf of the Shawnee Tribe alleges at least 24 instances in which Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park, 15513 S. Union Street, Carmel, Indiana, 317-770-4400 has failed to comply with the requirements of the NAGPRA. The Shawnee Tribe requests that you make a determination both with respect to the failure to comply and whether a civil penalty action is appropriate in light of the circumstances alleged as detailed in the summary that follows.

Preliminary Matters

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park "receives Federal funds" within the meaning of 43 C.F.R. 10.2(a)(3)(iii) based on the fact disclosed on the Hamilton County website(www.hamiltoncounty.in.gov), to wit American Recovery and Reinvestment Act funds allocated to Hamilton County for $6,657,616 through 2012 and Community Development Blocks Grants for Neighborhood Stabilization Program of $2,343,868 ***(see attached documents).*** On information and belief, the Hamilton County, Indiana has received additional Federal funds that are not disclosed on its website.

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park has "possession" and "control" within the meaning of 43 C.F.R. 10.2(d)(1) – (4) of Native American cultural items covered by the NAGPRA, including human remains and associated funerary objects recovered from archeological investigations carried out from 2001 to 2011 at Strawtown Koteewi Park/Hamilton County Parks and Recreation Department, Hamilton County, Indiana. Attached hereto as Appendix __ in support of this contention is the human remains inventory reports titled *"Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park by the Year and Site."* Report numbers ROI 216, ROI 301, ROI 401, ROI 502, ROI 514, ROI 604, ROI 701, ROI 803, ROI 902, ROI 1001, ROI 1101 reflect research completed by Indiana University Purdue University Fort Wayne (IPFW) – Archaeology Survey for compliance with grants from the National Park Service Historic Preservation Fund administered by the Indiana Department of Historic Preservation and Archaeology and the National Science Foundation.

Failure to Comply Allegations

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Parks has failed to comply with specific provisions of NAGPRA within the meaning of 43 C.F.R. 10.12(b)(1)(i) – (viii) as follows:

(1) - 43 C.F.R. 10.12 (ii) After November 16, 1993 has not completed a summary as required by the Act for a burial vessel intentionally excavated from the Strawtown Enclosure site at Strawtown Koteewi Park in 2007 ***(See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne – Archaeology Survey).***

(2) – 43 C.F. R. 10.12 (vi) Repatriated human remains, funerary object, sacred object, or object of cultural patrimony before publishing the required notice in the Federal Register; to wit Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park repatriated/reburied the burial vessel disinterred from the Strawtown Enclosure site at Strawtown Koteewi Park ***(See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne – Archaeology Survey).***

(3) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered Strawtown Koteewi Park in 2001 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(4) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered Strawtown Koteewi Park in 2002 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(5) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered Strawtown Koteewi Park in 2003 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

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(10) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered from Strawtown

Koteewi Park in 2008 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(11) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered from Strawtown Koteewi Park in 2009 as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

(12) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered from Strawtown Koteewi Park in 2010 as required by the Act.

(13) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with the Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the repatriation/reburial of a burial vessel intentionally excavated in 2007 and reburied in 2008.

(14) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2001.

(15) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2002.

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(19) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2006.

(20) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2007.

(21) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2008.

(22) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park,

regarding the human remains disinterred from Strawtown Koteewi Park in 2009.

(23) – 43 C.F.R. 10.12(b)(1)(vii) It has failed or refused to consult with lineal descendants, Indian tribe officials, and traditional religious leaders; to wit, Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not consult with Shawnee Tribe , a treaty and aboriginal tribe directly tied to the land at Strawtown Koteewi Park, regarding the human remains disinterred from Strawtown Koteewi Park in 2010.

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Request for Relief

Based on the foregoing, the Shawnee Tribe requests that the Secretary conduct an appropriate inquiry and reach a determination whether Hamilton County, Indiana Hamilton County Parks and Recreation Department/Strawtown Koteewi Park have failed to comply with NAGPRA and a determination regarding whether a civil penalty action is appropriate.

Please forward this Notice to the Enforcement Coordinator in the National NAGPRA Program for consideration and to affected and interested parties consistent with federal regulation. If you have any questions regarding this Notice or require any additional information relative to it, please contact Second Chief Ben Barnes of the Shawnee Tribe, at (918)542-2441 and/or by email at ben.barnes@gmail.com. Thank you.

Sincerely,

Ron Sparkman
Chief
Shawnee Tribe

Benjamin J. Barnes
Second Chief
Shawnee Tribe

EASTERN SHAWNEE TRIBE OF OKLAHOMA

12755 S. 705 Road, Wyandotte, OK 74370
Bluejacket Building (918) 666-2435, Fax: (918) 666-2186

VIA FEDERAL EXPRESS

November 2, 2012

NOV 07 2012

Mr. Jonathan B. Jarvis, Director
National Park Service
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: ***Notice of Failure to Comply with Native American Graves Protection and Repatriation Act, of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58***

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park

Dear Mr. Jarvis:

Please allow me to introduce myself to you through this correspondence. My name is Glenna J. Wallace and I serve as Chief of the Eastern Shawnee Tribe of Oklahoma, a federally recognized, sovereign tribal government. Pursuant to the Native American Graves Protection and Repatriation Act of 1990, Pub.L. 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-58 (NAGPRA) and the NAGPRA implementing regulations, specifically 43 C.F.R. Part 10.12, I am submitting the following as a formal notice of failure to comply. Specifically the following notice provided on behalf of the Eastern Shawnee Tribe of Oklahoma alleges at least 24 instances in which Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park, 15513 S. Union Street, Carmel, Indiana, 317-770-4400 has failed to comply with the requirements of the NAGPRA. The Eastern Shawnee Tribe of Oklahoma requests that you make a determination both with respect to the failure to comply and whether a civil penalty action is appropriate in light of the alleged circumstances.

Preliminary Matters

Hamilton County, Indiana-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park "receives Federal funds" within the meaning of 43 C.F.R. 10.2(a)(3)(iii) based on the fact disclosed on the Hamilton County website (www.hamiltoncounty.in.gov), to wit American Recovery and Reinvestment Act funds allocated to Hamilton County for $6,657,616 through 2012 and Community Development Blocks Grants for Neighborhood Stabilization Program of $2,343,868 ***(see attached documents).*** On information and belief, Hamilton County, Indiana has received additional Federal funds that are not disclosed on its website.

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park has "possession" and "control" within the meaning of 43 C.F.R. 10.2(d)(1) – (4) of Native American cultural items covered by the NAGPRA, including human remains and associated funerary objects recovered from archeological investigations carried out from 2001 to 2011 at Strawtown Koteewi Park/Hamilton County Parks and Recreation Department, Hamilton County, Indiana. Attached hereto as Appendix A in support of this contention is the human remains inventory reports titled *"Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park by the Year and Site."* Report numbers ROI 216, ROI 301, ROI 401, ROI 502, ROI 514, ROI 604, ROI 701, ROI 803, ROI 902, ROI 1001, ROI 1101 reflect research completed by Indiana University Purdue University Fort Wayne (IPFW) – Archaeology Survey for compliance with grants from the National Park Service Historic Preservation Fund administered by the Indiana Department of Historic Preservation and Archaeology and the National Science Foundation.

Failure to Comply Allegations

Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Parks has failed to comply with specific provisions of NAGPRA within the meaning of 43 C.F.R. 10.12(b)(1)(i) – (viii) as follows:

(1) - 43 C.F.R. 10.12 (ii) After November 16, 1993 has not completed a summary as required by the Act for a burial vessel intentionally excavated from the Strawtown Enclosure site at Strawtown Koteewi Park in 2007 **(*See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne – Archaeology Survey*).**

(2) - 43 C.F. R. 10.12 (vi) Repatriated human remains, funerary object, sacred object, or object of cultural patrimony before publishing the required notice in the Federal Register; to wit Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park repatriated/reburied the burial vessel disinterred from the Strawtown

Enclosure site at Strawtown Koteewi Park (***See attached List of Artifacts from Strawtown Koteewi Park burials, Page 5. Provided by Indiana University Purdue University Fort Wayne - Archaeology Survey***).

(3) - 43 C.F.R. 10.12(b)(1)(iii) After November 16, 1995 Hamilton County-Hamilton County Parks and Recreation Department/Strawtown Koteewi Park did not complete an inventory for human remains recovered Strawtown Koteewi Park in 2001 in as required by the Act in possession and/or control of Hamilton County Parks and Recreation Department/Strawtown Koteewi Park.

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Attached hereto in support of this Notice of Failure to Comply are: (Appendix A) 1) Copies of the Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park by the Year and Site, copies of all National Park Service Historic Preservation Fund Grant Reports from 2001 to 2011 including all human remains appendices and pictures from the reburial of the burial vessel from 2008. (Appendix B); 2) written materials pertaining to the museum's receipt of Federal funds. (Appendix C); 3) written materials exist pertaining to the museum's possession or control of Native American cultural items. (Appendix D); and 4) photographs of the reburial of the disinterred urn. If additional materials are discovered that are relevant to this Notice of Failure to Comply, they will be promptly submitted.

Request for Relief

Based on the foregoing, the Eastern Shawnee Tribe of Oklahoma requests that the Secretary conduct an appropriate inquiry and reach a determination whether Hamilton County, Indiana Hamilton County Parks and Recreation Department/Strawtown Koteewi Park have failed to comply with NAGPRA and a determination regarding whether a civil penalty action is appropriate.

Please forward this Notice to the Enforcement Coordinator in the National NAGPRA Program for consideration and to affected and interested parties consistent with federal regulation. If you have any questions regarding this Notice or require any additional information relative to it, please contact Robin Dushane, Tribal Historic Preservation Officer for the Eastern Shawnee Tribe of Oklahoma, at (918) 666 2435 ext 1845 and/or by email at rdushane@estoo.net. Thank you.

Sincerely,

Glenna J. Wallace

Glenna J. Wallace, Chief
Eastern Shawnee Tribe of Oklahoma

APPENDIX A

Isolated Human Skeletal Elements Recovered from Archaeological Investigations at Strawtown Koteewi Park, by Year and Site

Cat. No.	Provenience	Element	Age
2001 (ROI 216, Accn. No 01.71), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
01.71.4.3	Unit A, 28-38 cmbd	Second incisor, heavily worn	Adult
01.71.3.4	Unit A, 38-48 cmbd	Possible cranial fragment, burned	
01.71.6.3	Unit B, 65 cmbd	Right mandible fragment, distal up to canine	Adult (F)
01.71.12.7	Unit I, 100-110 cmbd	First right premolar	Adult
01.71.2.3	Unit O, 40-50 cmbd	First incisor, heavily worn	Adult
01.71.52.0	Feature 1, 58-88 cmbd	Possible cranial fragment, burned	
2002 (ROI 301, Appendix K, Accn. No 02.68), Strawtown Enclosure, 12H883			
316	Feature 1	Lone bone shaft fragment	Human/Bear
448	Feature 2	Long bone shaft	Human
830	Feature 6, SW ½	Right temporal	Human
859	Feature 2	Lone bone shaft fragment	Human
955	Feature 6a, Level 5	Occipital	Human
966	Feature 6a, Zone 3	Long bone shaft fragment	Human
2968	Unit 9, Level 2	Cranial vault fragment	Human
2768	Unit 11, Level 3	Long bone shaft cf. radius	Human
3184	Unit 22, Level 4	Cranial vault fragment	Human
3338	Unit 21, 38-50 cmbd	Cranial vault fragment	Human
1904	Groundhog Hole	22 shaft fragments, 6 cranial vault fragments, 1 pelvis fragment, Right temporal fragment	Human
2003 (ROI 401), Strawtown Enclosure, 12H883, and Castor Farm, 12H3			
Human Remains from Castor Farm, 12H3, Accn. No. 03.50			
03.50/127	Unit G, Burial 1, 42-46 cmbd		Adult (M)
03.50/154	Unit N, Burial 2, Level 1		Adult (M)
03.50/170	Burial 1, Unscreened	Bone Sample	Adult (M)
03.50/171	Burial 2, Unscreened	Cranial Bone Sample	Adult (M)
03.50/172	Burial 3-1	Cranial Bone Sample, Sample 1	Juvenile-8 years
03.50/173	Burial 3-2	Cranial Bone Sample, Sample 2	Subadult-15 years
03.50/174	Burial 3-3	Cranial Bone Sample, Sample 3	Juvenile-<4 years
03.50/175	Burial 3-4	Cranial/Teeth Bone Sample, Sample 4	Infant, ~6 months
03.50/176	Burial 3-5	Mandible/Teeth Bone Sample, Sample 5	
03.50/191	Unit C, Feature 3 SW 1/4,	3rd Metatarsal	

Cat. No.	Provenience	Element	Age
	Level 2, 61-71 cmbd		
03.50/307	Unit F, Feature 6 E ½, Level 1, 71 cmbd		
03.50/502	Unit N/L, Feature 16, 50-70 cmbd		
03.50/516	Unit K, Feature 13, Level 2, 65-71 cmbd		
03.50/638	Unit M/V, Feature 22 NE ½, Level 1, 65-121 cmbd		
03.50/677	Unit V, Feature 22 SW ½, Zone 1, 65-90 cmbd	Cervical Vertebra	
03.50/783	SVS Unit N411 E130, Levels 1-3, 0-36 cmbs	Burned	
03.50/845	N469 E114, Level 1, 50-56 cmbd	Molars	
03.50/923	Unit K, Level 1, 43-61 cmbd	Burial 1 fragments	
03.50/938	Burial 1, Unit K, Level 1, 53-62 cmbd		Adult (M)
03.50/990	Unit K, Level 2, 56-73 cmbd		
03.50/1021	Burial 2, Unit L, Level 1, 49 cmbd		Adult (M)
03.50/1757	Unit R, Level 3, W ½, Zone B, 71-79 cmbd		
03.50/2015	Unit W, Level 3, 68-80 cmbd		
03.50/2168	Flot, Unit C, Feature 5, Zone 4, 100.5-103.5 cmbd		
	Human Remains from Strawtown Enclosure, 12H883, Accn. No. 03.72		
03.72/1693	Unit 53, Level 1, 100-116.5 cmbd	Burial 1, Burial fill	
03.72/1775	Unit 57, W ½, Level 4, 100-110 cmbd		
03.72/2346	Unit 63, Level 3, 90-100 cmbd		
03.72/2967	Feature 18/Burial 2, SW ½, 100-113.5 cmbd	Long bone	Infant
03.72/3025	Feature 22/Unit 53/Burial 1, Level 1, 114 cmbd	Bone Sample 1	
03.72/3026	Feature 22/Unit 53/Burial 1, Level 1, 114 cmbd	Bone Sample 2	
03.72/3351	Feature 24, W ½, 110-166 cmbd		
	2004 (ROI 502, Accn. No. 04.62), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park		
04.62/217	Surface	Skull fragment	Unid.
04.62/458	Feature 27	Left tibia	Juvenile
04.62/459	Feature 27	Right distal femur shaft	Adult
04.62/460	Feature 27	Right proximal ulna	Adult (M)
04.62/461	Feature 27	Right mandible (refits left mandible recovered in 2005, #1714)	Adult

Cat. No.	Provenience	Element	Age
04.62/462	Feature 27	Tibia shaft, reactive bone	Adult
04.62/463	Feature 27	Right proximal humerus	Adult
04.62/464	Feature 27	Left os coxae	Adult (M)
04.62/465	Feature 27	Left os coxae	Adult (F)
04.62/466	Feature 27	Right hamate, scaphoid, metacarpals, phalanges	Adult
04.62/467	Feature 27	Left lunate	Adult
04.62/468	Feature 27	First distal foot phalange, left	Adult
04.62/798	Feature 27	Left distal humerus	Adult
04.62/835	Unit 27	Cranial fragments	
04.62/857	Unit 25	Molar fragment	Adult
04.62/911	Unit 31	Two cranial fragments and lower right medial incisor	Adult
04.62/935	Unit 33	Cranial fragment	
04.62/1108	Units 52-55,61-64, Lvl 3 Block Scrape	Two Teeth	
04.62/1448	Feature 27	Upper left third premolar, upper right fourth premolar	Adult
04.62/1794	Feature 27	Lower right first molar, upper right lateral incisor	Adult
04.62/1928	Feature 27	Phalanges: 1 fifth proximal; 1 fifth medial; 1 unidentified	Adult
04.62/2034	Feature 27	Right lunate	Adult
2004 (ROI 502, Accn. No. 04.83), Human Remains from Strawtown Enclosure, 12H883			
04.83/593	Unit 23, Level 2, 60-70 cmbd	First incisor, Lower right; Ri1	
2005 (ROI 514, Accn. No. 05.61), Castor Farm, 12H3, Temporary Curation: Strawtown Koteewi Park			
318	Feature 47	Lower right first premolar	Young adult
359	Feature 47	Right distal ulna	Adult
384	Feature 47	Two cranial fragments	Adult
405	Feature 48	Cranial fragment	
643	Unit 117, Lvl. 2	Upper left incisor	Adult
1037	Feature 27	Rib	Adult

Cat. No.	Provenience	Element	Age
1038	Feature 27	Right humerus	Adult
1039	Feature 27	Left humerus	Adult
1262	Feature 27	Upper right second premolar	Young adult
1396	Feature 27	Tooth fragment	Adult
1424	Feature 27	Cervical vertebra (C7)	Adult
1504	Feature 27	Lower left molar	Young adult
1592	Feature 27	Lower right second molar	Adult
1606	Feature 27	Right distal ulna	Adult
1690	Feature 27	Left proximal fibula	Adult
1714	Feature 27	Left mandible, 2 fragments (refits right mandible recovered in 2004, #461)	Adult (M)
1804	Feature 27	Premolar (refits right mandible recovered in 2004, #461)	Adult (M)
2006 (ROI 604, Accn. No. 06.10) Human Remains from Castor Farm, 12H3			
06.1/918	N435 E120, STP 4	Tooth, Lower premolar	
2006 (ROI 701/ Accn. No. 06.98), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
226	Unit 89, 60-70 cmbd	Lower left central incisor	Adult
971	Unit 97, 70-80 cmdb	Lower right incisor, deciduous	Subadult
1666	Unit 103, 60-70 cmbd	First right upper incisor	
1699	Unit 103, 70-80 cmbd	Two incisors, upper right and left	
1718	Unit 103, level 4	Two humerus head fragments	
1861	Unit 105, Level 3	Lower left canine	
3924	Unit 103, Feature 39	Cranial fragment	
3925	Unit 103, Feature 39	Rib fragment	
2007 (ROI 803, Accn. No. 07.5), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			
3255	Unit 132, 70-80 cmbd	Upper left incisor, cut marks on root	
1350	Unit 138, 50-60 cmbd	Lower incisor	
1731	Unit 142, 60-70 cmbd	Lower right canine	
2854	Feature 33, 95-131 cmbd	Lower canine root	
2008 (ROI 902, Accn. No. 08.1), Strawtown Enclosure, 12H883, Curation Location: Strawtown Koteewi Park			

Cat. No.	Provenience	Element	Age
1361	Feature 84, Unit 209, Structure 2	Molar	
2556	Feature 27, Level 4/5		
2011, (ROI 1201, Accn. No. 11.1), 12H1052, Temporary Curation: Strawtown Koteewi Park			
87	Unit 10	Phalange	

APPENDIX B

Hamilton County, Indiana

Recovery Act Projects Summary

Project Description:	Estimated Total Cost	ARRA Funds to be used:	Lead Agency
Rehabilitate Runway - 18/36	$4,315,789	$3,408,000	Hamilton County Airport Authority
CDBG-R: Community Development Block Grant Amendment for Additional Funds Details		$214,753	Noblesville Housing Authority
Justice Assistance Grant : Portable Courtroom Evidence Presentation System Application for Grant(pdf)	$22,000	$22,000	Hamilton County Circuit and Superior Courts
Mule Barn Rd. Asphalt Overlay (S.R. 32 to S.R. 47)	$448,766.77	$448,766.77	Hamilton County Highway Department
Bridge 611 -Bridge Rehabilitation (Cumberland Rd. over White River)	$474,358.90	$474,358.90	Hamilton County Highway Department
146th St. Asphalt Overlay (Boone Co. Line to Ditch Rd.)	$358,934.80	$318,757.44	Hamilton County Highway Department
146th St. Asphalt Overlay (Ditch Rd. to Springmill Rd.)	$129,866.87	$116,957.42	Hamilton County Highway Department
116th St. Asphalt Overlay (White River Bridge to .35 mi. E. of Eller Rd.) Olio Rd. Asphalt Overlay (Geist Reservoir Bridge to 126th St.)	$560,671.84	$551,427.86	Hamilton County Highway Department
Olio Rd. Asphalt Overlay (126th St. to 136th St.)	$278,867.12	$274,126.62	Hamilton County Highway Department

234th St. Asphalt Overlay (Cicero Town Limits to Overdorf Rd.)	$240,951.23	$237,396.38	Hamilton County Highway Department
Homeplace Trails (106th St. & College Ave.)	$236,443.05	$219,450.00	Hamilton County Highway Department
146th St. Trails (Cherry Tree Rd. to River Rd.)	$157,551.63	$144,247.00	Hamilton County Highway Department
Cumberland Rd. Asphalt Overlay (96th St. to 106th St.) Towne Rd. Asphalt Overlay (96th St. to 116th St.)	$241,933.26	$227,379.92	Hamilton County Highway Department

Contact Us

1 Hamilton County Sq
Suite 157
Noblesville, IN 46060
Get Directions

- Office: (317) 776-9719
- Office Fax: (317) 776-8454

News & Notices

- 05/28/2012
  County Holiday - Memorial Day

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APPENDIX C

June 14, 2012

List of Artifacts from Strawtown Koteewi Park Burials

A comprehensive list of burials and associated, or potentially associated, artifacts are provided from Strawtown Koteewi Park archaeological sites. These include the Strawtown enclosure (12H883), Castor Farm (12H3), and 12H1052 sites. Artifact information was garnered from the IPFW-AS Strawtown database in a Microsoft Access format and from grant reports.

Each section below contains a list of burials and artifacts. Any artifact that can be reasonably associated with a burial is noted. When a feature contained an interment, a reasonable presumption is that artifacts from the feature fill should be included if requested for repatriation. IPFW-AS willingly acknowledges the desires by the Oklahoma Miami for repatriation of human remains and objects, and will concur and support their desires for return of any object or remains previously excavated. This list of items should not be considered conclusive, but is a starting point for consideration during the consultation process. Each burial is listed below with the field specimen number, the feature or burial number, and the associated catalog numbers. Items highlighted in red were artifacts that were definitely identified as associated funerary objects.

2001 Strawtown Enclosure (12H883), Accession Number 01.71, Report of Investigation 216

Six catalog numbers were identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2001 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2002 Strawtown Enclosure (12H883), Accession Number 03.68, Report of Investigation 301

The database and the ROI 301 report have no record of human remains. However, Appendix K of the ROI 301 report contains a list of human remains identified by Rexford Garniewicz. A number of isolated human remains were encountered during the 2002 excavations at the Strawtown Enclosure site. Also, a number of human remains were collected from the backdirt of an active groundhog hole within the enclosure, resulting from an apparent nearby burial.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document.

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2003 Castor Farm (12H3), Accession Number 03.50, Report of Investigation 401

A number of isolated human remains were encountered during the 2003 excavations at the Castor Farm site. Additionally, three separate burials were exposed during excavation. These consisted of Burial 1, a partially flexed individual; Burial 2, a partially flexed individual; and Burial 3, a large bundle burial with the remains of at least five individuals.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document.

Burial 1 was located in Units G and K and interred within an obvious excavated burial pit. Feature 13 was located in close proximity, near the feet. The written description of Feature 13 indicates that it is likely associated with Burial 1 based on the presence of two abraders and two complete beamers. The contents of this feature could also be considered grave goods and may be requested for repatriation with the burial. Other possible associated artifacts are presented in the following table.

Burial 1 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
185	127-128	Burial 1
217	922-923	Burial 1
229	933-947	Burial 1
232	977-986	Burial 1 Pit Fill
267	129-142	Burial 1 Pit Fill, Cat 129 Beamer
436	170	Burial 1

Field Specimen (FS) Number	Catalog Numbers	Remarks
276	514-551	Feature 13, artifacts
276	533,534	Feature 13, beamers
276	532,551	Feature 13, abraders
293	2295-2302, 2470, 2541, 2592	Feature 13 flot artifacts, heavy/light fraction

Burial 2 was located in Units L and N and interred within a partially identified burial pit. The contents of the burial pit should likely be considered grave goods and repatriated.

Burial 2 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
227	1020-1027	Burial 2
314	143-155	Burial 2
335	158, 160-169	Burial 2
354	1066-1067	Burial 2/3

Burial 3 was located the northeast corner of Unit L. It was a bundle burial containing at least five individuals based on the presence of five crania and assorted long bones. Several items from Burial 3 are included and should be considered for repatriation.

Burial 3 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
332	156-157	Burial 3
438-443	171-176	Bone Samples from Burial 3

2003 Strawtown Enclosure (12H883), Accession Number 03.72, Report of Investigation 401

A number of isolated human remains were encountered during the 2003 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavation. These consisted of Burial 1 (Feature 22), a bundle burial; and Burial 2 (Extension of Feature 18), an infant interment.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items are provided in the attached document

Burial 1 (Feature 22) was located in Unit 53 and consisted of a bundle burial containing several long bones from a single individual. No specific items were defined as associated with the burial but all artifacts excavated from Feature 22 are included in the table below.

Burial 2 (Feature 18) was located immediately south of Feature 18 and identified as a projection. It consisted of an infant interment; no burial pit could be identified.

Burial 1 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
200	1692-1698	Burial 1 fill
135	1773-1804	Burial 1
142	2325-2353	Burial 1
201	30, 137-139, 1615-1621, 1644-1698, 3025-3026, 3488	Burial 1

Burial 2 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
134	5, 29, 133-136, 2962-2974, 3487	Burial 2

2004 Castor Farm (12H3), Accession Number 04.62, Report of Investigation 502

A number of isolated human remains were encountered during the 2004 excavations at the Castor Farm site. Additionally, one burial was partially exposed during excavation. This consisted of an interment in Feature 31.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically

encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

A poorly understood burial was partially exposed during Feature 31 excavation.

Feature 31 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
714	436	Shell pendant
716	2050	Feature 31
719	1352-1360	Feature 31
729	95, 170, 720-727	Feature 31
732	35, 97, 172, 739-744	Feature 31

2004 Strawtown Enclosure (12H883), Accession Number 04.83, Report of Investigation 502

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2004 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2005 Castor Farm (12H3), Accession Number 05.61, Report of Investigation 514

A number of isolated human remains were encountered during the 2005 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

2006 Castor Farm (12H3), Accession Number 06.10, Report of Investigation 604

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2006 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2006 Strawtown Enclosure (12H883), Accession Number 06.98, Report of Investigation 701

A number of isolated human remains were encountered during the 2006 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavation. These consisted of Feature 38, a bundle burial; and Feature 39, a tightly-flexed interment.

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically

encountered during construction of houses, storage pits, postholes, etc. A list of these items are provided in the attached document

Feature 38 consisted of a bundle burial containing eight long bones from a single individual. No specific items were defined as associated with the burial but all artifacts excavated from Feature 38 are listed in the table below. All excavated bone was replaced in Feature 38 prior to excavations being backfilled.

Feature 39 consisted of a tightly-flexed individual with a partially identified burial pit. All artifacts, including those from levels 3, 4, and 5 directly above the feature are included in the table below. A broken pestle was located near the edge of the burial pit and is included as an associated funerary object.

Feature 38 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
202	3867-3899	Feature 38
184	3900-3913	Feature 38
201	4051-4066, 4097, 4113, 4123	Feature 38

Feature 39 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
228	3914-3922	Feature 39
231	3923	Feature 39
232	3924	Feature 39
233	3925	Feature 39
76	1655-1693	Feature 39
132	1694	Feature 39, piece plot sherd
218	1695	Feature 39, Ground stone pestle
151	1696-1715	Feature 39
152	1716-1731	Feature 39
208	3534	Feature 39

2007 Strawtown Enclosure (12H883), Accession Number 07.5, Report of Investigation 803

A number of isolated human remains were encountered during the 2007 excavations at the Strawtown Enclosure site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited, or discarded, after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. Additionally, two interments were encountered during excavation, one each in Features 46 and 48.

One interment was encountered in Feature 46 in the central portion of the plaza. An associated funerary object, a shell-tempered Taylor Village-style vessel was removed, studied, and then replaced in the burial. It is presumed that all artifacts encountered in the excavation unit, excluding historic items, were associated with the burial and should be considered for repatriation. These items are listed in the table below.

Feature 48 was identified in the south profile wall of the main excavation block. It was a bundle burial containing long bones and a cranium. Upon discovery, no further work was completed and no effort to further expose the individual was undertaken. A list of artifacts from this feature is included in the table below.

Feature 46 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1	8-17	Unit 121
16	18-24	Unit 121
6	29-33, 35	Unit 122
17	36-44	Unit 122
7	50-55, 58-59	Unit 123
13	60-66	Unit 123
2	69-75	Unit 124
12	77-80	Unit 124
52	2623	Bear tooth
22	371-378	Feature 46
23	379	Feature 46, piece plot bear mandible
295	2952-2954	Feature 46
298	2955-2958	Feature 46
294	3645	Feature 46, Heavy fraction
292	2959	Unit 152
279	2499-2503	Unit 152
280	2504-2506	Unit 152
295	2952-2954	Unit 152

Feature 48 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
56F	3607-3612	Feature 48, Unit 97, Level 5, Flot

2008 Strawtown Enclosure (12H883), Accession Number 08.1, Report of Investigation 902

One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2008 excavation year. No associated artifacts are listed here and the list of human remains is provided in the attached document.

2009 Castor Farm (12H3), Accession Number 09.2, Report of Investigation 1001

Three isolated human remains were encountered during the 2009 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document.

Additionally, two burials were partially exposed during excavation and one feature contained disassociated human elements. Feature 81/Posthole 86 contained an infant skull; Feature 80 had three separate human elements and few artifacts; and Feature 68 was partially exposed in Unit U

until human elements were identified amongst the feature debris, at which point excavation was halted and all bone placed back within the feature. A list of all artifacts is provided in the table below.

Feature 80 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1220	3623-3626	Feature 80, 5 artifacts

Feature 81/Posthole 86 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1212	3627-3630	Feature 81
1219	3631	Feature 81, Vessel section
1213	3661-3664	Feature 81

Feature 68 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
1097	3588-3592	Feature 68

2010 Strawtown Enclosure (12H883), Accession Number 10.2, Report of Investigation 10.1

A number of isolated human remains were encountered during the 2010 excavations at the Strawtown Enclosure site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited, or discarded, after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of these items is provided in the attached document. Additionally, three interments were encountered during excavation, one each in Features 67, 72, and 74.

One interment was encountered in Feature 67 near the base of a large, deep storage pit. The individual was apparently covered with peeled bark. A number of associated funerary objects were identified within close proximity to this individual. These were photo-documented and replaced. Concerning the artifacts, at least two differing interpretations may be offered regarding association. One is that all artifacts recovered from Feature 67 could be considered associated with the burial and should be repatriated. A secondary interpretation is that all artifacts located below the 'Bark Layer' are associated funerary objects and should be repatriated. These items are listed in the table below and should be discussed as part of consultation with the Miami of Oklahoma.

A second and third interment was partially exposed in Features 72 and 74 during excavation. Upon discovery, no further work was completed and no effort to further expose the individuals was undertaken. A list of artifacts from these features is included in the tables below.

Feature 67 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
88	5356-5370	Unit 169, Level 5
99	6285-6290, 6721-6722	Unit 169, Level 5
35	5371-5404	Unit 171, Level 4

107	5405-5430, 5447	Unit 171, Level 5
107	5446	Unit 171, Scribed Elk Scapula
45	5431-5444	Unit 177, Level 4
119	5448-5468	Unit 177, Level 5
58	5472-5491	Unit 178, Level 4
124	5492-5510	Unit 178, Level 5
192	5956-6028	Feature 67, E ½, 80-130 cmbd
222	6044-6098	Feature 67, E ½, 130-167 cmbd
295	6099-6218	Feature 67, E ½, 167-233 cmbd
372	6265	Feature 67, E ½, piece plot rim sherd
373	6266	Feature 67, E ½, organics
384	5811	Feature 67, W ½, Strat 1 soil sample
384	6319-6329, 6723-6724	Strat 1 Flot
385	6291-6318, 6751-6752	Strat 1 Waterscreen, Hvy Fraction
386	5812	Feature 67, W ½, Strat 2 soil sample
386	6345-6347, 6725-6726	Strat 2 Flot, Lgt/Hvy Fraction
387	6330-6344, 6755-6756	Strat 2 Waterscreen, Hvy Fraction
391	5813	Feature 67, W ½, Strat 3 soil sample
391	6370-6373, 6727-6728	Strat 3 Flot, Lgt/Hvy Fraction
392	6348-6369, 6757-6758	Strat 3 Waterscreen, Hvy Fraction
397	5814	Feature 67, W ½, Strat 4 & 4a, Soil sample
397	6390-6403, 6729-6730	Strat 4&4a, Flot, Lgt/Hvy Fraction
398	6374-6389, 6753-6754	Strat 4&4a Waterscreen, Hvy Fraction
399	5815	Feature 67, W ½, Strat 5, Soil Sample
399	6445-6460, 6733-6734	Strat 5, Flot, Lgt/Hvy Fraction
400	6404-6431, 6759-6760	Strat 5, Waterscreen, Hvy fraction
412	5816	Feature 67, W ½, Strat 5, Soil Sample
412	6432-6444, 6731-6732	Strat 5, Flot, Lgt/Hvy fraction
413	6269	Feature 67, W ½, Strat 6, piece plot
414	5817	Strat 6 soil sample
414	6467-6489, 6735-6736	Strat 6, Flot, Lgt/Hvy fraction
415	6461-6466, 6761-6762	Strat 6, Waterscreen, Hvy fraction
420	5818	Feature 67, W ½, Strat 7, Soil sample
420	6492-6495, 6737-6738	Strat 7, Flot, Lgt/Hvy fraction
423	6490-6491	Waterscreen
424	5819	Feature 67, W ½, Strat 8, Soil sample
424	6536-6546, 6739-6740	Strat 8, Flot, Lgt/Hvy fraction
425	6496-6535, 6763-6764	Strat 8, Waterscreen, Hvy fraction
426	5820	Feature 67, W ½, Strat 9, Soil sample
426	6613-6618,6741-6742	Strat 9, Flot, Lgt/Hvy fraction
427	6547-6612, 6769-6770	Strat 9, Waterscreen, Hvy fraction
429	5821	Strat 9, Soil Sample
429	6619-6626, 6743-6744	Strat 9 Flot, Lgt/Hvy fraction
445	5822	Strat 9 Soil sample
445	6627-6633, 6745-6746	Strat 9 Flot, Lgt/Hvy fraction
475	6270	Strat 9 Flora
485	6634-6643, 6765-6766	Bark Layer, Waterscreen, Hvy fraction
530	5827	Feature 67, W ½, Strat 11, Soil sample
530	6663-6670, 6747-6748	Strat 11 Flot, Lgt/Hvy fraction
533	6644-6662, 6767-6768	Strat 11&12, Waterscreen, Hvy fraction
531	5828	Feature 67, W ½, Strat 12, Soil sample
531	6671-6720, 6749-6750	Strat 12, Flot, Lgt/Hvy fraction
532	6272-6284, 7528	Strat 12, Hand Collected

Feature 72 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
102	7298-7307	Feature 72
198	7308-7318	Feature 72

Feature 74 Table of Artifacts

Field Specimen (FS) Number	Catalog Numbers	Remarks
337	7342-7345	Feature 74
338	7358-7374	Feature 74
346	5810	Feature 74, Soil sample
346	7015-7021, 7013-7014	Flot, Lgt/Hvy fraction
347	7346-7357	Feature 74
471	7375-7386	Feature 74

2011 Castor Farm (12H3), Accession Number 11.3, Report of Investigation 1201

A number of isolated human remains were encountered during the 2011 excavations at the Castor Farm site. Additionally, one burial was partially exposed during excavation. This consisted of an interment in Feature 84 (Structure 2).

The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. A list of items is provided in the attached document. The greater majority of these were recovered from the midden fill removed from Feature 27.

A poorly understood burial was partially exposed during Feature 84 excavation. Upon encountering the burial, excavation was halted and no further effort was attempted to expose the elements. No associated funerary objects were recovered during excavation.

2011 Site 12H1052, Accession Number 11.1, Report of Investigation 1201

One catalog number was identified and assigned to human remains elements or fragments, located in an excavation unit. One interment was encountered during the 2011 excavation year in Feature 19. Upon identification as human remains, excavation was halted and all artifacts and bone was placed back with the feature. No associated artifacts are listed here and the list of human remains is provided in the attached document.

APPENDIX D

Miami Tribe of Oklahoma

P.O. Box 1326–Miami, Oklahoma 74355
Ph: 918-542-1445 Fax: 918-542-7260

Via Electronic & United States Mail

September 10, 2013

David Tarler, NAGPRA Compliance Officer
National NAGPRA Program
National Park Service
1201 Eye Street, NW (8th floor)
Washington, D.C. 20005

Re: Hamilton County Parks and Recreation Department
Failure to Comply Notice

aya Mr. Tarler:

The Miami Tribe of Oklahoma submits this letter in follow up to its August 10, 2012 Notice of Failure to Comply regarding the Hamilton County Parks and Recreation Department (HCPRD), to report that HCPRD has achieved compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) and to acknowledge and express its deep appreciation for the hard work and dedication of the HCPRD in its work with the Miami and other historic tribes of Indiana.

The HCPRD and the Tribe have engaged in an extensive, on-going and collaborative effort to achieve NAGPRA compliance and to build a positive future-looking relationship over the past 12 months. This process culminated in a Federal Register Notice dated July 30, 2013 that transfers custody of the human remains and associated funerary objects found at Strawtown Koteewi Park between 2001 and 2011 to the tribes listed in the Notice at the expiration of the 30 day register notice. It is the intention of the Tribes consulted to repatriate the human remains and associated funerary objects to a site provided by the HCPRD at a time and date to be determined later.

The Miami Tribe of Oklahoma acknowledges and appreciates the hard work and dedication of the staff at the Hamilton Parks and Recreation Department to fulfill its requirements under NAGPRA. Despite a spare budget and a volunteer Board, HCPRD was focused and engaged in the compliance and consultation process. In consultation, the Park staff and the representatives of the tribes produced a detailed assessment of the human remains and associated funerary objects listed in the register notice. It is the consensus of the consulting parties that the inventory submitted to National NAGPRA is

a comprehensive list of the human remains and associated funerary objects recovered at Strawtown Koteewi Park during the years listed in the notice.

Moreover, as an acknowledgement of the commitment that the parties have to their future relationship, HCPRD and the Tribe entered into a Memorandum of Understanding with the Miami Tribe which details the future NAGPRA reporting and consultation requirements for the Parks Department (see attached copy). Further, the HCPRD offered the tribes a repatriation location so that the remains and objects returned to the tribes as a result of this process can be repatriated in as close proximity to their original location as possible.

The Miami Tribe submits this communication to advise of this important progress and to inform that a detailed *Joint Status Report*, prepared by the Tribe and HCPRD, will be submitted to your attention next week. I am available to you if you have any questions.

Nipwaahkaalo,

Douglas Lankford

Douglas G. Lankford, Chief

cc: Terry Prather, HCPRD Board
Steven Andrews, Esq., HCPRD
Joseph Halloran, Esq.

MEMORANDUM OF UNDERSTANDING

between

THE MIAMI TRIBE OF OKLAHOMA

and

HAMILTON COUNTY INDIANA DEPARTMENT OF PARKS AND RECREATION

FOR NOTIFICATION, CONSULTATION, TREATMENT, HANDLING AND STUDY OF NATIVE AMERICAN HUMAN REMAINS AND CULTURAL OBJECTS and DISPOSITION AND REPATRIATION UNDER REQUIREMENTS OF THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

WHEREAS, a purpose of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001-3013 (1990) is to develop a systematic process for determining the rights of lineal descendants and Indian Tribes to certain human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony with which they are affiliated, and to expedite the repatriation and reinterment of those human remains and associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony; and

WHEREAS, the Miami Tribe of Oklahoma (the Tribe) is a federally-recognized sovereign tribal government whose aboriginal homelands covered much of what now comprises the State of Indiana, and recognizes those American Indians who lived in its aboriginal homelands throughout history as ancestors; and

WHEREAS, Hamilton County Department of Parks and Recreation (HCPDR or the Park), a county institution, has possession of, and/or control over, human remains, funerary objects, sacred objects, or objects of cultural patrimony and receives federal funds and must comply with NAGPRA; and

WHEREAS, HCDPR is a museum within the meaning of NAGPRA because it has possession of Native American human remains, funerary objects, sacred objects and objects of cultural patrimony and received federal funds; and

WHEREAS, HCDPR is currently curating Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony, until repatriation takes place; and

WHEREAS, HCDPR has, or may have, on-going activities related to (HCDPR) collections affiliated with the Tribe, such as requests for research and analysis, curatorial contracts with other agencies or museums that have, or may have, control over Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony, which HCDPR acknowledges are considered by the Tribe to be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has, or may have, on-going activities that involve the display of items on loan from other institutions, which could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that are considered by the Tribe to be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has in the past and expects in the future to have offers from private parties to donate items that could include associated or unassociated funerary objects sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has compilations of related scientific, ethnographic, and historical information collected over time from these collections that is significant to archaeologists, anthropologists, and historians and also significant to Native Americans in understanding their heritage; and

WHEREAS, the Tribe asserts, and the Park recognizes the right of the Tribe to notice, consultation and repatriation of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony identified, by a preponderance of the evidence, as being affiliated with the Tribe; and

WHEREAS, the Tribe, whose aboriginal and treaty lands encompass all of Hamilton County, asserts, and the Park recognizes, the right under the NAGPRA to repatriate Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony identified through the consultation process as being culturally unidentifiable; and

WHEREAS, the Tribe maintains cultural beliefs that raise concern regarding the excavation and research of Native American human remains solely for the purpose of scientific study and objects to HCDPR holding Native American remains in indefinite and lonely storage; and

WHEREAS, the Tribe and HCDPR have engaged in extensive and ongoing consultations about NAGPRA compliant processes and have determined to enter into this Memorandum of Understanding to establish specific procedures for notification, consultation, treatment, handling, and study of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony; disposition and repatriation of Native American human remains and cultural objects identified, which the Park recognizes as being claimed by the Tribe as being culturally affiliated with the Tribe; and

WHEREAS, HCDPR agrees to prepare a summary and maintain a current inventory of all Native American human remains and associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony in its possession or under its control, as mandated under provisions NAGPRA, and, after consultation with the Tribe, to submit copies of said summary and inventory to the Miami Tribe of Oklahoma and the Manager, National NAGPRA Program; and

WHEREAS, HCDPR agrees to identify those Native American human remains and associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony that, and after consultation with the Tribe, as mandated under provisions of NAGPRA, are claimed as being affiliated with the Tribe; and

WHEREAS, the Parties agree that the terms of this Memorandum of Understanding will be binding on any entity engaged in ground disturbing activities at HCDPR, and that permission to engaged in such activity will only be granted by HCDPR to those entities that first expressly subscribe and bind themselves to the requirements of this Memorandum of Understanding.

NOW, THERFORE, HCDPR and the Tribe agree that the following stipulations and procedures shall be followed for the notification, consultation, treatment, handling, and study of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony and for the disposition and repatriation of Native American human remains and cultural objects identified, based on a preponderance of the evidence, as being claimed by the Tribe as being culturally affiliated with the Tribe and that the provisions of this Memorandum of Understanding create and establish mutual rights in the parties:

DEFINITIONS

As used in this Memorandum of Understanding,

"Castor Farm": That area at Koteewi-Strawtown Park currently defined as 12-H-3, as depicted on the Map attached hereto as **Appendix 1** and which is owned and operated by HCDPR in Northern Hamilton County, Indiana.

"Cultural Items" means Native American human remains, associated funerary objects, unassociated funerary objects, sacred objects, objects of cultural patrimony.

"Culturally Affiliated" means Cultural Items with a shared group identity that can be reasonably traced historically or prehistorically between the Tribe and an identifiable earlier group by a preponderance of the evidence -- based on geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion.

"Culturally Unidentifiable" means Cultural Items for which no culturally affiliated present-day Indian tribe or Native Hawaiian organization can be determined.

"Enclosure": That area at Koteewi-Strawtown Park currently defined as 12-H-883, as depicted on the Map attached hereto as **Appendix 1**, and which is owned and operated by HCDPR in Northern Hamilton County, Indiana.

"Excavation" means the intentional disruption of ground that is either undertaken to research archeology, anthropology or to determine whether the location contains human remains or Cultural Items or Sacred Objects, and also means the intentional disruption of group for any other reason and disturbs the ground at greater than a 1 foot depth.

"HCDPR" or "the Park" means the Hamilton County Department of Parks and Recreation, a political subdivision of Hamilton County, Indiana.

"NAGPRA" or "Act" means the Native American Grave Protection and Repatriation Act,25 U.S.C. 3001 et seq. and all regulations promulgated thereunder, specifically including those at 43 C.F.R. Part 10.

"Objects of Cultural Patrimony" means an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such

object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

"Sacred Objects" means Specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

"Tribe" means the Miami Tribe of Oklahoma, a sovereign, federally-recognized, self-governing Indian Tribe.

Terms not defined herein by the parties shall be defined according to the definitions found in the NAGPRA or the federal regulations implementing the Act. If neither this MOU nor the NAGPRA or its implementing regulations provide a definition, the term shall be defined according to its plain and ordinary meaning.

STIPULATION

I. ROUTINE COMMUNICATION.

A. HCDPR shall comply with all applicable federal laws in instances where Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony may be or are encountered.

B. HCDPR shall give notice, provide relevant information and consult with the Tribe regarding, at a minimum, the following:

1. Any proposed undertaking for which the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is required;

2. Any proposed Excavation in the Castor Farm or the Enclosure area depicted on the Map attached hereto as **Appendix 1,** and all areas of known Native American occupation or habitation;

3. Any proposed Excavation outside of the Castor Farm or the Enclosure area that has been assessed under the National Historic Preservation Act and found to be an area of known Native American occupation and habitation that involves previously undisturbed soil that has not been surveyed for historical properties and would disturb ground at a depth greater than 1 foot or otherwise within the generally accepted plow zone;

4. Any proposed undertaking in which the area has been adequately surveyed for historical properties and that survey reflects that the area contains or is likely to contain areas of known Native American occupation and habitation, human remains or cultural or sacred objects, as defined in the NAGPRA;

5. Any discovery of Native American Cultural Items as defined herein that predate European contact, made as a result of soil disturbing activity. This will provide the Tribe an opportunity to consult on whether the discovered materials are of religious or cultural significance;

6. If HCDPR intends to include, in any, display items on loan from a third party that could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe. HCDPR will not display Native American human remains on loan from a third party; and

7. If a party offers to donate items to the HCDPR which items could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe, the HCDPR will provide a report of such offers, including a listing and photograph of the items, and the Tribe and HCDPR will consult on and determine the appropriate disposition of the items.

C. The HCDPR and the Tribe shall have regular, periodic meetings to assess and discuss the activities covered by this MOU and, if necessary, to resolve any concerns or disagreements arising pursuant to those activities or the interpretation of either party's obligations under this MOU. Such meetings shall occur not less than semi-annually and shall occur at a mutually agreeable location, beginning April, 2014.

D. The parties shall initiate and maintain consultation through telephone, facsimile, electronic mail, and face-to-face meetings. Without limiting any right to communication, the parties shall reply to the other party within thirty (30) days should any issue or inquiry be raised during routine communication by either party.

II. SPECIAL COMMUNICATION.

A. The Tribe and HCDPR agree that the procedures for the discovery of human remains or cultural objects as a result of intentional archaeological excavation and by accidental discovery will be governed by the provisions of NAGPRA and its implementing regulations as follows:

1. Intentional Archaeological Excavation: With regard to the intentional archeological excavation, if human remains, funerary objects, sacred objects or objects of cultural patrimony, per 43 C.F.R. §10.3 (Intentional Archaeological Excavations) are discovered, HCDPR shall:

   a. Not undertake any further excavation within the area of discovery (See Section II.B.2) without notification to and consultation with the Tribe per 43 C.F.R. §10.5. The parties intend that the provision of notice hereunder will be provided through a daily log that will be kept and provided to the Tribe on at least a weekly basis and that consultation about those logs will be established by the parties through protocols;

   b. Ensure that disposition of any Native American human remains or Cultural Objects shall be consistent with 43 C.F.R. §10.6 (Custody); 10.14 (Lineal Descent and Cultural Affiliation); and

   c. The Tribe shall be notified first by electronic mail, facsimile, or telephone AND also by overnight delivery as follows:

Primary Contact:	Chief Miami Tribe of Oklahoma 202 S. Eight Tribes Trail Miami, Oklahoma 74354 (918) 542-1445 Ext. 1360
With Copies to:	Cultural Resources Officer Miami Tribe of Oklahoma 202 S. Eight Tribes Trail Miami, Oklahoma 74354 (918) 542-1445 Ext. 1399

General Counsel
Miami Tribe of Oklahoma
202 S. Eight Tribes Trail
Miami, Oklahoma 74354
(918) 542-1445 Ext. 1399

Tribal Historic Preservation Officer
Miami Tribe of Oklahoma
202 S. Eight Tribes Trail
Miami, OK 74354
(317) 625-1288

2. Discoveries Not Resulting From Intentional Archaeological Excavations (Accidental Discoveries): The parties agree that the handling of all discoveries of human remains, funerary objects, sacred objects, or objects of cultural patrimony, resulting from activities other than Intentional Archaeological Excavation (Accidental Discoveries) will comply with the requirements of 43 C.F.R. §10.4 applicable to "Inadvertent Discoveries" as follows, irrespective of whether those discoveries occur as a result of activities on tribal or federal lands or lands held by state or local governments or by private parties:

   a. Within a reasonable time of discovery not to exceed 5 business days, notify the Tribal Chief and Cultural Resources Director by electronic mail, facsimile or telephone and send written correspondence by overnight mail to the Tribal Chief and Cultural Resources Director if requested by the Cultural Resources Director;

   b. Take all reasonable means to protect and safeguard the human remains or cultural objects;

   c. Consult with the Tribe per 43 C.F.R. §10.5 (Consultation);

   d. If the human remains, funerary objects, sacred objects or objects of cultural patrimony must be excavated or removed, follow the requirements and procedures in 43 C.F.R. §10.3 (b) (Intentional Archaeologieal Excavations); and

   e. Make disposition consistent with 43 C.F.R. §10.6 (Custody); 10.10 (Repatriation); and 10.14 (Lineal Descent and Cultural Affiliation).

B. The Tribe and HCDPR agree to adopt protocols relating to the discovery of human remains, within one year from the execution of this MOU, or at a later date to which the parties mutually agree:

1. Individuals making the discovery, who are officers, employees or agents of the HCDPR shall first contact the appropriate law enforcement agency and immediately notify the HCDPR Director. If a discovery is made or appears to have been made by trespassers, or other nefarious actors, the parties will consult on the matter and, where appropriate, a report will be made to the DNR, appropriate local law enforcement and, where appropriate, federal authorities; and

2. In the event of an accidental discovery that is determined not to be related to a crime, all ground disturbing activities within 30 foot radius of the discovery shall cease and the Tribe shall be notified immediately by phone and the provisions of Section II.A.2.

III. CONSULTATION.

In each instance of intentional excavation or accidental discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony, the Tribe and HCDPR agree that HCDPR will comply with 43 C.F.R. §10.5 (Consultation), as follows:

A. Consult with the Tribe as a tribe whose aboriginal lands comprise lands where HCDPR activities occur;

B. Notify the Tribe by telephone and send written correspondence through electronic mail, facsimile, or telephone, AND also by overnight mail; and

C. Consult with the Tribe which shall include an opportunity for the parties to consider and discuss the proposed treatment of the human remains, funerary objects, sacred objects, objects of cultural patrimony and the disposition of the remains or objects uncovered by means of intentional excavation or inadvertent discovery.

IV. CUSTODY.

Priority for custody of any human remains, funerary objects, sacred objects, or objects of cultural patrimony uncovered by means of intentional excavation or accidental discovery shall be with lineal descendants or the Native American tribe with the closest cultural affiliation as determined by 43 C.F.R. §10.14(c).

V. TREATMENT, CARE AND HANDLING OF NATIVE AMERICAN HUMAN REMAINS, ASSOCIATED AND UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY.

A. Human remains shall be treated with the utmost care and respect. Human remains should not be separated from their associated funerary objects. If human remains have been separated from objects found with them, every effort should immediately be made to bring the associated objects and remains back together in one place. In some cases, this may mean coordinating with an outside agency or museum to which these objects have been loaned. If removed, human remains should be wrapped in cloth, preferably red cloth.

B. Associated funerary objects shall be treated with the utmost care and respect. Often Native American burials, as archaeological features, still contain evidence of ceremonial practices. These practices still have special meaning to the Tribe today. Associated objects may be personal belongings that the deceased needed for his or her journey or use in the afterlife or they may be the material remains of the ritual acts of other family and community members who were in attendance at the burial and that were intended never to be disturbed. Objects may appear "ceremonial" in nature or they may simply appear to be accidental inclusions of unrelated debris. Objects may have been placed in the grave feature with the deceased, or placed slightly above the body, or placed on the ground surface above the grave. Thus, Items that are found within and above any grave feature shall be considered associated funerary objects and should remain together with human remains, with all soil and fill left in place at the site of the discovery.

C. Unassociated funerary objects shall be treated with the utmost care and respect. Unassociated funerary objects, by definition, have been separated from their human remains. Every effort should be made to determine whether the classification is appropriate.

If another facility or museum is housing the human remains associated with the funerary objects, or the location of the remains is otherwise known, the Tribe and HCDPR shall treat the objects held by HCDPR as associated funerary objects. HCDPR shall make every effort to bring the human remains and "unassociated" funerary objects back together in the HCDPR curatorial facility, unless the human remains have not been exhumed, in which case they should be left *in situ*. This effort shall include coordinating with other museums or facilities that have either funerary objects or human remains on loan.

D. Sacred objects will be treated with the utmost care and respect. Sacred objects have strong religious meaning and symbolism to the Tribe. Examples of sacred objects are any items that are found with or are otherwise associated with burials, any items excavated from ritual or ceremonial contexts, and any items collected ethnographically and recognized by the Tribe as sacred objects. HCDPR shall contact the Tribe with any proposed plans for moving, handling, exhibiting or researching sacred objects.

E. Objects of cultural patrimony will be treated with the utmost care and respect and be identified on a case-by-case basis by the Tribe's THPO or Cultural Preservation Officer. Objects of cultural patrimony are generally, although not always, found in ethnographic collections. An object of cultural patrimony is one having an ongoing historical, traditional, or cultural importance to the Tribe, as opposed to property owned by an individual Native American. Because of its importance to the Tribe as a whole, it cannot be, or cannot have been, alienated, appropriated, or conveyed by any single individual, regardless of whether or not such an individual is or was a member of the Tribe. An object of cultural patrimony shall have been considered inalienable by the Tribe at the time the object was separated from the Tribe.

VI. CONDUCT AT EXCAVATION SITES.

A. The utmost caution and respect shall be maintained during any intentional archeological excavation and any excavation following an accidental discovery. During any such archaeological undertaking, project staff, volunteers, students, and public citizen participants shall act in a respectful and responsible manner in regard both to the cultural materials and human remains contained in the archaeological sites (i.e., the "archaeological record").

B. Archaeological undertakings by HCDPR can provide opportunities to educate others about traditional Native American viewpoints toward the archaeological record and the practice of archaeology itself. Because the archaeological record contains the material references of the past behaviors and beliefs of the Tribe's

ancestors, the Tribe and HCDPR will both use their best efforts to encourage participants to practice courteous behavior while surveying and recording archaeological information, excavating, taking samples, performing laboratory work, and related tasks – and particularly whenever human remains are involved.

C. The Tribe and HCDPR agree that sites that are delineated as archaeological sites today are places where the Tribe's ancestors were born, lived their lives, engaged in their religious beliefs, died, and were buried. They are, therefore, places of solemnity and reverence that warrant behavior that is consistent with such places. To try and instill on the public this solemnity and reverence, HCDPR and the Tribe will erect such signage as in the Tribe's opinion will reflect and encourage this attitude.

VII. REQUESTS FOR RESEARCH AND ANALYSIS, CURATORIAL CONTRACTS WITH OTHER FACILITIES AND MUSEUMS, AND ANY SCIENTIFIC INFORMATION GATHERED OVER TIME FROM COLLECTIONS.

A. Requests for Research on Native American Human Remains, Associated and Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony: HCDPR shall notify and consult with the Tribe before responding to any request to analyze human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony in HCDPR's possession.

B. Curatorial Contracts with Other Agencies and Museums: HCDPR shall notify and consult with the Tribe before entering into any curatorial contracts or agreements with other agencies, facilities, private donors, museums, or similar entities that pertain to any human remains, funerary objects, sacred objects, or objects of cultural patrimony that, by a preponderance of the evidence, are affiliated with the Tribe.

C. Scientific Information Gathered Over Time From Collections: The HCDPR has information regarding research pertaining to the human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural in its control and/or possession, including but not limited to: draft and final research reports; donor information; archaeological excavation and collection notes, forms, and related records; analyses records; correspondence; contracts; research proposals; photographic records; various hand- and computer-generated drawings; site maps; accession and catalog records; and other curatorial and administrative records. This information is valuable and pertinent to an understanding of the prehistory

and history of the Tribe. The HCDPR thus shall provide reasonable access to and accommodation for the examination of these records on by the Tribe, should the Tribe make such a request for the information.

VIII. DISPOSITION - ACCIDENTIAL AND INTENTIONAL DISCOVERIES.

The Tribe and HCDPR agree that the procedures for Custody (43 C.F.R. §10.6), Repatriation (43 C.F.R. §10.10) and Lineal Descent and Cultural Affiliation (43 C.F.R. §10.14) will be governed by the provisions of NAGPRA and its implementing regulations.

IX. SUMMARIES - UNASSOCIATED OBJECTS.

HCDPR will comply with 43 C.F.R §10.8 (Summaries) requirements, at a minimum, as follows:

A. Complete and maintain summaries of each and every unassociated funerary object, sacred object, or objects of cultural patrimony;

B. Consult with tribes who are likely culturally affiliated with the objects and from whose aboriginal lands the objects originated. Consultation shall be initiated upon completion of the summary process by letter, with follow-up telephone contact;

C. Provide copies of the summary to lineal descendants, when known, to the Tribe and to the Manager, National NAGPRA Program; and

D. Prior to any repatriation of any unassociated funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants or culturally affiliated tribes, HCDPR shall submit to the Manager, National NAGORA Program, a notice of intent to repatriate, which shall be published in the Federal Register.

X. INVENTORIES - HUMAN REMAINS AND ASSOCIATED OBJECTS.

A. HCDPR shall complete and maintain inventories of any human remains and associated funerary objects over which it has possession or control and shall identify the geographical origin and cultural affiliation of each item consistent with the requirements of 43 C.F.R §10.9 (Inventories).

B. HCDPR shall consult with parties to include lineal descendants or tribes who are likely culturally affiliated; from whose aboriginal lands the remains/associated objects originated; or from whose current tribal lands the remains or associated objects originated.

C. HCDPR shall maintain separate inventories for 1) Human remains and associated funerary objects that are identified as culturally affiliated with one or more present-day tribes, and 2) Human remains and associated funerary objects for which no culturally affiliated present-day tribe can be determined.

D. HCDPR shall notify the Tribe no later than six (6) months after completion of the inventory, if the inventory process results in identification or likely identification of cultural affiliation with the Tribe of human remains or associated funerary objects.

E. A copy of the inventory completion shall be sent to the Tribe and the Manager, National NAGPRA Program, in both print and electronic copy.

F. HCDPR shall submit to the Tribe and the Manager, National NAGPRA Program, a list of all human remains and associated funerary objects which cannot be identified as affiliated with a particular tribe.

XI. REPATRIATION - UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS AND OBJECTS OF CULTURAL PATRIMONY.

A. Upon request of the Tribe, the Park and the Tribe will expeditiously repatriate unassociated funerary objects, sacred objects and objects of cultural patrimony pursuant to the provisions of 43 C.F.R. §10.10 (Repatriation), if the following conditions are met:

1. The object meets the definitions established in 43 C.F.R.§10.2(d)(2(ii), (d)(3), or (d)(4);

2. The cultural affiliation of the object is established:

    a. Through the summary, consultation, and notification procedures in 43 C.F.R §10.14 (Lineal Descendent and Cultural Affiliation) of the NAGPRA implementing regulations; or

b. By presentation of a preponderance of the evidence by the Tribe pursuant to section 7(c) of the Act;

3. HCDPR is unable to present evidence proving that it does have a right of possession, and

4. None of the specific exemptions listed in 43 C.F.R §10.10(c) apply.

B. Repatriation must take place within 90 days of the receipt of a written request from the Tribe, per 43C.F.R. §10.10(3), provided that repatriation may not occur until at least 30 days after publication of the notice of intent to repatriate in the Federal Register, as described in C.F.R. §10.8. The parties acknowledge that periods of severe weather may delay repatriation.

XII. REPATRIATION - HUMAN REMAINS AND FUNERARY OBJECTS.

A. Upon request of the Tribe and per 43 C.F.R §10.10(b), HCDPR must expeditiously repatriate human remains and associated funerary objects if the following conditions are met:

1. The human remains or associated funerary objects meet the definitions established in 43 C.F.R.§10.2(d)(1) (Definitions) or (d)(2)(4);

2. The affiliation of the deceased individual to the Tribe:

a. Has been reasonably traced through procedures outlined in 43 C.F.R §10.9 (Inventories); and 43 C.F.R.§10.14 (Lineal Descent and Cultural Affiliation); or

b. Has been demonstrated by a preponderance of the evidence, as presented by the Tribe, pursuant to section 7(c) of the Act; and

3. None of the specific exemptions in 43 C.F.R. §10.10 (c) (Repatriation) apply.

B. Repatriation shall take place within 90 days of receipt of a written request from the Tribe, per 43 C.F.R.§10.10(b)(2), provided that repatriation may not occur until at least 30 days after publication of the notice of intent to repatriate in the Federal Register, as described in 43 C.F.R. §10.9. The parties acknowledge that periods of severe weather may delay repatriation. The parties further agree that, in the event

HCDPR receives requests for repatriation from more than one tribe, it may reasonably await a determination by the tribes regarding how repatriation will proceed. The Tribe will provide the HCDPR notice of the inter-tribal decision and, if the Tribe is to proceed with repatriation, the parties will endeavor to complete repatriation within 45 days of the Tribe's written notice of the inter-tribal repatriation decision. If the inter-tribal decision delays repatriation beyond 90 days from receipt of the written request from the Tribe, the Tribe agrees that such delay shall not constitute a violation of this Memorandum of Understanding.

C. The parties shall acknowledge and abide by exceptions to requirements for repatriation outlined in 43 C.F.R. §10.10(c).

D. HCDPR shall consult with the Tribe to determine the place and manner of repatriation per 43 C.F.R. §10.10(d).

E. HCDPR shall inform the Tribe of any known treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony with pesticides, preservatives, or other substances, as some substances represent a potential hazard to the objects or to persons handling the objects per 43 C.F.R. §10.10(e).

F. The parties agree that information relating to the location of historic and archeological sites, including the discovery and repatriation of associated or unassociated funerary objects, sacred objects, objects of cultural patrimony or human remains constitute sensitive information that should not be made available to the general public pursuant to 43 C.F.R. §10.10(f)(2) and qualify to be determined as confidential by the director of the Indiana Division of Historic Preservation pursuant to Indiana Code, Section 14-21-1-32, and agree jointly to attempt to secure such a formal determination by the Division Director.

G. HCDPR shall report to the Manager, National NAGPRA Program, any and all culturally unidentifiable human remains so that the National NAGPRA Program Review Committee can recommend actions for their disposition to the Secretary of Interior per 43 C.F.R. §10.10(e).

XIII. DISPUTE RESOLUTION.

A. Mediation. If any dispute arises under this Memorandum of Agreement, the parties shall first attempt to resolve their differences through mediation. Such mediation shall occur within 45 days from the date that either party requests mediation in writing. The mediation period shall close 15 days after it is begun. If no resolution is reached, the parties may then pursue other remedies.

B. Binding Neutral Determination. If the parties agree, they may submit an issue in dispute to National NAGPRA for an interpretation, which the parties agree will be a binding resolution of the issue submitted.

C. Choice of Forum. If the parties are unable to resolve their dispute through mediation, the parties agree that disputes may be submitted to the exclusive jurisdiction of the United States District Court for the Southern District of Indiana.

D. Choice of Law. This Agreement and all matters or issues collateral thereto shall be construed, governed by, and interpreted in accordance with the laws of the State of Indiana applicable to contracts executed without regard to conflicts of law principles and without any acknowledgement that such laws otherwise are applicable to the Tribe.

XIV. SEVERABILITY.

The parties have endeavored to follow the implementing regulations at 43 CFR Part 10, Native American Graves Protection and Repatriation Act of 1990, in establishing these agreed-upon procedures. In the event any provision of this Agreement is declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and shall remain in full force or effect, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

On this 26th day of August, 2013 this Memorandum of Understanding has been executed between the Miami Tribe of Oklahoma and Hamilton County, Indiana Department of Parks and Recreation.

THE MIAMI TRIBE OF OKLAHOMA

By: Hon. Douglas Lankford
Its: Chief

Witness

HAMILTON COUNTY INDIANA DEPARTMENT OF PARKS AND RECREATION

By: Andrew T. Prather
Its: President

Witness

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 0 6 2013

Allen Patterson
Director
Hamilton County Parks and Recreation Department
15513 S. Union Street
Carmel, Indiana 46033

Dear Mr. Patterson:

Pursuant to 25 U.S.C. 3007 and 43 C.F.R. 10.12(e), this letter serves as notice to the Hamilton County Parks and Recreation Department (Hamilton County Parks) that a six-count allegation concerning Hamilton County Parks' failure to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) was filed with the Department of the Interior. Based on an investigation conducted during 2012-2013, I have determined that two of the alleged counts of failure to comply are substantiated and four of the alleged counts are unsubstantiated. Additionally, the Department of the Interior wishes to advise you that the National NAGPRA Program is ready to assist Hamilton County Parks in achieving NAGPRA compliance.

In a letter from the Miami Tribe of Oklahoma dated August 10, 2012, a letter from the Shawnee Tribe dated August 31, 2012, and a letter from the Eastern Shawnee Tribe of Oklahoma dated November 2, 2012, each Indian tribe alleged that:

1. Hamilton County Parks receives Federal funds;
2. Hamilton County Parks has possession or control of Native American human remains and associated funerary objects that were removed from Strawtown Koteewi Park;
3. Strawtown Koteewi Park is located in and owned by Hamilton County, Indiana, and managed by Hamilton County Parks, a subdivision of Hamilton County, Indiana;
4. Hamilton County Parks has failed to complete an inventory of the human remains and associated funerary objects in question, which omission constitutes failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(iii);
5. Hamilton County Parks has possession or control of an item described as a shell-tempered Taylor Village-style vessel that was removed from Strawtown Koteewi Park;
6. The shell-tempered Taylor Village-style vessel is an unassociated funerary object;
7. Hamilton County Parks has failed to complete a summary that includes the shell-tempered Taylor Village-style vessel, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at C.F.R. 10.12(b)(1)(ii);
8. Hamilton County Parks repatriated the shell-tempered Taylor Village-style vessel before publishing the required notice in the Federal Register, which action constitutes a failure to comply with the requirements of NAGPRA, as set forth at C.F.R. 10.12(b)(1)(vi); and

9. Hamilton County Parks has failed to consult with the Miami Tribe of Oklahoma, the Shawnee Tribe, and the Eastern Shawnee Tribe of Oklahoma on the human remains and associated funerary objects, and unassociated funerary object in question, which omission constitutes a failure to comply with the requirements of NAGPRA with respect to each of the three tribes, as set forth at 43 C.F.R. 10.12(b)(1)(vii).

The investigation found that:

1. Hamilton County Parks is a subdivision of the government of Hamilton County, Indiana;
2. Between November 16, 1990 and 2001, Hamilton County, Indiana received Federal funds, as the term "receives Federal funds" is defined under 43 C.F.R. 102(a)(3)(iii). Federal funds made available to the State of Indiana, in turn, were made available by the State of Indiana to Hamilton County, Indiana in an arrangement by which a Federal agency made available to Hamilton County, Indiana aid in the form of funds;
3. Between 2001 and 2011, Hamilton County Parks had possession or control of Native American human remains and associated funerary objects that had been removed from Strawtown Koteewi Park, as the terms "possession", "control", "human remains", and "associated funerary objects" are defined under 43 C.F.R. 10.2(a)(3)(1)-(2) and 10.2(d)(1)-(2)(i);
4. Following the requirements under 43 C.F.R. 10.9, Hamilton County Parks was required to complete an inventory of the human remains and associated funerary objects that were removed from Strawtown Koteewi Park, as the term "inventory" is defined under 43 C.F.R. 10.2(g)(2);
5. By April 20, 2009, Hamilton County Parks was required to complete an inventory for the human remains and associated funerary objects that were removed from Strawtown Koteewi Park between 2001 and April 20, 2007, as required under 43 C.F.R. 10.13(b)(1)(ii);
6. Within two years of their removal, Hamilton County Parks was required to complete an inventory for the human remains and associated funerary objects that were removed from Strawtown Koteewi Park after April 20, 2007, as required under 43 C.F.R. 10.13(b)(1)(ii);
7. By August 10, 2012, all the human remains and associated funerary objects removed from Strawtown Koteewi Park between April 21, 2007 and August 10, 2010, were required to be included in an inventory, as required under 43 C.F.R. 10.13(b)(1)(ii);
8. Hamilton County Parks did not complete any inventory of the human remains and associated funerary objects in question by August 10, 2012 (the date on which the Miami Tribe of Oklahoma alleged that Hamilton County Parks had failed to complete an inventory);
9. In 2007, Hamilton County Parks had possession or control of an item described as a shell-tempered Taylor Village-style vessel that was removed from Strawtown Koteewi Park;
10. A "List of Artifacts from Strawtown Koteewi Park Burials,"dated June 14, 2012, which was provided to the Miami Tribe of Oklahoma, the Shawnee Tribe, and the Eastern Shawnee Tribe of Oklahoma by the Indiana University Purdue University Fort Wayne-Archaeological Survey, which surveyed Strawtown Koteewi Park, lists the vessel in question as an "associated funerary object";

11. Hamilton County Parks reburied the vessel in Strawtown Koteewi Park;
12. Hamilton County Parks did not consult with the Miami Tribe of Oklahoma, the Shawnee Tribe, or the Eastern Shawnee Tribe of Oklahoma on the geographical and cultural affiliation of the human remains and associated funerary objects in question, following 43 C.F.R. 10.9, by any deadline for completing or amending an inventory of the human remains and associated funerary objects;
13. According to final judgments of the Indian Claims Commission or the United States Court of Claims, and treaties, Acts of Congress, or Executive Orders, the land from which the human remains and associated funerary objects in question were removed is the aboriginal land of the Miami Tribe of Oklahoma;
14. The land from which the human remains and associated funerary objects in question were removed cannot be shown to be the aboriginal land of the Shawnee Tribe based on final judgments of the Indian Claims Commission or the United States Court of Claims, or treaties, Acts of Congress, or Executive Orders;
15. The land from which the human remains and associated funerary objects in question were removed cannot be shown to be the aboriginal land of the Eastern Shawnee Tribe of Oklahoma based on final judgments of the Indian Claims Commission or the United States Court of Claims, or treaties, Acts of Congress, or Executive Orders;
16. In May 2013, Hamilton County Parks completed an inventory that included the human remains of 34 individuals and 151 funerary objects associated with those individuals that had been removed from Strawtown Koteewi Park between 2001 and 2011;
17. On July 30, 2013, Hamilton County Parks published a Notice of Inventory Completion in the Federal Register (78 Fed. Reg. 45956-45957) for the human remains of the 34 individuals and the 151 funerary objects associated with them, in which Hamilton County Parks reported that the human remains and associated funerary objects in question had been removed from Strawtown Koteewi Park between 2001 and 2011; stated that it had consulted on the inventory with representatives of Indian tribes that included the Miami Tribe of Oklahoma, the Shawnee Tribe, and the Eastern Shawnee Tribe of Oklahoma; determined the human remains and associated funerary objects in question to be culturally unidentifiable; and, following 43 C.F.R. 10.11(c)(2), identified the land from which the culturally unidentifiable human remains and associated funerary objects were removed as the aboriginal land of the Miami Tribe of Oklahoma and the Delaware Nation, Oklahoma; and
18. The Shawnee Tribe and the Eastern Shawnee Tribe of Oklahoma did not claim the human remains and associated funerary objects reported in the July 30, 2013 Notice of Inventory Completion as culturally affiliated with them.

Based on the above findings of fact, I have made the following determinations with respect to the six-count allegation of failure to comply:

1307_HAMILTON COUNTY PARKS. Hamilton County Parks is a museum, as the term "museum" is defined under 43 C.F.R. 10.2(a)(3). Hamilton County Parks receives Federal funds, as the term "receives Federal funds" is defined under 43 C.F.R. 10.2(a)(3)(iii). Hamilton County Parks is a subdivision of Hamilton County, Indiana. Hamilton County, Indiana has received Federal funds through the State of Indiana since November 16, 1990. Consequently, Hamilton County Parks is deemed to have received Federal funds since

November 16, 1990. Beginning in 2001, Hamilton County Parks also had possession or control of Native American human remains and associated funerary objects. The receipt of Federal funds coupled with possession or control of Native American human remains and associated funerary objects made Hamilton County Parks a museum under NAGPRA. As a museum, Hamilton County Parks was responsible for complying with the requirements of NAGPRA, including the completion of an inventory of the Native American human remains and associated funerary objects in its possession or control. Hamilton County Parks did not complete an inventory by the deadlines under 43 C.F.R. 10.13(b)(1), i.e., by April 20, 2009 with respect to the human remains and associated funerary objects that were removed from Strawtown Koteewi Park between 2001 and April 20, 2007, and by August 10, 2012, with respect to all the human remains and associated funerary objects removed from Strawtown Koteewi Park between April 21, 2007 and August 10, 2010, and this omission constitutes one count of failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(iii).

1308_HAMILTON COUNTY PARKS. In order to complete an inventory, a museum must consult on the geographical and cultural affiliation of human remains and associated funerary objects, following the requirements under 43 C.F.R. 10.9. Under 43 C.F.R. 10.9(b)(1)(ii)(C), the museum must consult with Indian tribe and religious leaders from whose aboriginal lands the human remains and associated funerary objects originated. Under 25 U.S.C. 3002(a)(2)(C) and 43 C.F.R. 10.11(b)(2)(ii), aboriginal occupation may be recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims, or by a treaty, Act of Congress, or Executive Order. According to final judgments of the Indian Claims Commission or the United States Court of Claims, and treaties, Acts of Congress, or Executive Orders, the land from which the human remains and associated funerary objects in question were removed, Strawtown Koteewi Park, is the aboriginal land of the Miami Tribe of Oklahoma. Consequently, Hamilton County Parks was required to consult with the Miami Tribe of Oklahoma on the geographical and cultural affiliation of the human remains and associated funerary objects removed from Strawtown Koteewi Park within the required timeframe for completing an inventory. Hamilton County Parks did not consult with the Miami Tribe of Oklahoma under 43 C.F.R. 10.9 within the required timeframe for completing an inventory, and this omission constitutes one count of failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12(b)(1)(vii).

1309-1310_HAMILTON COUNTY PARKS. In order to complete an inventory, a museum must consult on the geographical and cultural affiliation of human remains and associated funerary objects, following the requirements under 43 C.F.R. 10.9. Under 43 C.F.R. 10.9(b)(1)(ii)(B), the museum must consult with Indian tribe and religious leaders that are, or are likely to be, culturally affiliated with the human remains and funerary objects. As the Shawnee Tribe and the Eastern Shawnee Tribe of Oklahoma did not claim the human remains and associated funerary objects reported in the July 30, 2013 Notice of Inventory Completion as culturally affiliated with them, I cannot determine that these two tribes are, or are likely to be, culturally affiliated with the human remains and associated funerary objects removed from Strawtown Koteewi Park. Consequently, I have determined that, at this time, the Shawnee Tribe and the Eastern Shawnee Tribe of Oklahoma were not affected by the

absence of consultation between Hamilton County Parks and themselves, and that the two alleged counts of failure to consult with them under 43 C.F.R. 10.9 are unsubstantiated.

1311_HAMILTON COUNTY PARKS. Under 25 U.S.C. 3004 and 43 C.F.R. 10.8, a museum that has possession or control of items that may be unassociated funerary objects, sacred objects, or objects of cultural patrimony is required to complete a summary of those items. If the item removed from Strawtown Koteewi Park and described as a shell-tempered Taylor Village-style vessel were an unassociated funerary object, Hamilton County Parks would have been required to include the vessel in a summary. A June 14, 2012 document entitled "List of Artifacts from Strawtown Koteewi Park Burials" lists the vessel in question as an "associated funerary object." This vessel must, therefore, be included in an inventory rather than a summary. Consequently, I have determined that the one alleged count of failure to complete a summary under 43 C.F.R. 10.8 is unsubstantiated.

1312_HAMILTON COUNTY PARKS. Under 43 C.F.R. 10.10(b)(2), a museum may not repatriate an associated funerary object without first publishing a Notice of Inventory Completion in the Federal Register. Hamilton County Parks reburied the associated funerary object described as a shell-tempered Taylor Village-style vessel in Strawtown Koteewi Park. As Strawtown Koteewi Park is owned by Hamilton County, Indiana, Hamilton County Parks still has control of this associated funerary object. Hamilton County Parks must include this associated funerary object in an inventory; the vessel is subject to the requirements of NAGPRA. As Hamilton County Parks still has control of the associated funerary object in question, I have determined that the one alleged count of failure to repatriate an associated funerary object before publishing the required notice in the Federal Register is unsubstantiated.

Pursuant to 43 C.F.R. 10.12(f), upon receipt of this notice of failure to comply, you may:

1. Within 45 days of the date of service, seek informal discussion with the Secretary of the Interior's designee by contacting NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov); and/or
2. Within 45 days of the date of service, request a hearing to contest this finding; or
3. Within 45 days of the date of service, contact NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov) and waive your right to a hearing.

Procedures for requesting a hearing are set forth at 43 C.F.R. 10.12(j). Failure to file a written request for a hearing within 45 days of the date of service waives your right to a hearing. After 45 days from the date of service, and if no hearing is requested, I am authorized under 43 C.F.R. 10.12(h) to assess a civil penalty against the Hamilton County Parks and Recreation Department for failure to comply with the requirements of NAGPRA. Hamilton County Parks has the right to seek judicial review of any final administrative decision assessing a civil penalty.

More information on NAGPRA, as well as the civil penalty hearing and appeal process, can be found in the enclosed copies of 25 U.S.C. 3001-3013 and 43 C.F.R. Part 10. If you have any questions, or would like to initiate an informal discussion of this matter, you may contact NAGPRA Enforcement Coordinator David Tarler. Alternatively, if you take no action, you will

hear from this office in approximately eight weeks. If you seek technical assistance on NAGPRA compliance, you may contact National NAGPRA Program Manager Sherry Hutt, at (202) 354-1479.

Sincerely,

Rachel Jacobson
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

cc: Douglas Lankford, Chief, Miami Tribe of Oklahoma
Ron Sparkman, Chief, Shawnee Tribe
Glenna J. Wallace, Chief, Eastern Shawnee Tribe of Oklahoma
George Strack, Tribal Historic Preservation Officer, Miami Tribe of Oklahoma
Robin Dushane, Tribal Historic Preservation Officer, Eastern Shawnee Tribe of Oklahoma
Stephen K. Andrews, Senior Partner, Attorney at Law, Andrews & Cox, P.C. d/b/a Bleeker Brodey & Andrews
Andrew T. Prather, President of the Board, Hamilton County Parks and Recreation Department

Enclosures: 25 U.S.C. 3001-3013
43 C.F.R. Part 10

Tarler, David <david_tarler@nps.gov>

Hamilton County Department of Parks and Recreation findings of December 6, 2013

1 message

Stephen Andrews <sandrews@bbanda.com> Fri, Jan 3, 2014 at 2:35 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>
Cc: "Allen W. Patterson" <allen.patterson@hamiltoncounty.in.gov>, Andrew T. Prather (b)(6) [redacted]>

Dear Mr. Tarler:

I am writing you as legal counsel for the Hamilton County Department of Parks and Recreation regarding the findings of the US Dept. of Interior as it relates to the complaints filed by the Miami Tribe of Oklahoma, the Shawnee Tribe and the Eastern Shawnee Tribe against my client. I am requested the opportunity to discuss the findings with a representative of the Dept of Interior or alternatively appeal the findings of the Department. It is my understanding that this notice suffices to initiate the process. Please feel free to contact me either by email or the toll-free number below.

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged.

THIS IS AN ATTEMPT TO COLLECT A DEBT. THE COMMUNICATION IS FROM A DEBT COLLECTOR AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE.

THE INFORMATION CONTAINED IN THIS EMAIL IS INFORMATION PROTECTED BY ATTORNEY-CLIENT AND/OR ATTORNEY/WORK PRODUCT PRIVILEGES. IT IS INTENDED SOLELY FOR THE USE AND VIEW OF THE ADDRESSEE AND THE PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY EMAIL. IF THE PERSON ACTUALLY RECEIVING THIS TRANSMISSION OR ANY OTHER READER OF THIS DOCUMENT OR ANY ATTACHMENT IS NOT THE NAMED RECIPIENT OR THE EMPLOYEE OR THE AGENT OF THE RECIPIENT AUTHORIZED TO READ THESE ITEMS, BE ADVISED THAT, ANY USE, DISSEMINATION, DISTRIBUTION, TRANSMISSION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.

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BISON CONNECT

Tarler, David <david_tarler@nps.gov>

Hamilton COunty Park Dept\NAGPRA violations

1 message

Stephen Andrews <sandrews@bbanda.com> Fri, Jan 3, 2014 at 3:45 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>
Cc: "Allen W. Patterson" <allen.patterson@hamiltoncounty.in.gov>, Andrew T. Prather (b)(6)

Mr. Tarler:

Thank you for the opportunity to speak with you today regarding the above. I understand that you will expect to hear from me by January 17th with the Park's mitigation request and documentation. I will submit to you a copy of the Department's 2013 budget as you requested asap. It is also my understanding that if we require a few additional days to respond that should not be a problem. thank you again for your time. Very truly yours,

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

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Tarler, David <david_tarler@nps.gov>

2013 budget for Hamilton County Parks

1 message

Stephen Andrews <sandrews@bbanda.com> Fri, Jan 3, 2014 at 4:23 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>

Mr. Tarler,

I misspoke, the budget was $3,292,759. I am attaching a copy per your request. Best,

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

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2013 Final Approved Budget.pdf
1372K

Hamilton County Auditor

Park

Memo

To: Elected Officials and Department Heads

From: Hamilton County Council

CC:

Date: October 16, 2012

Re: 2013 Budgets

The Hamilton County Council met and adopted the 2013 budgets on Monday, October 15th.

Attached is your adopted budget and 144's. Note: **Budgets are not final until final budget orders are received from the Department of Local Government Finance and therefore are subject to change.**

The following Departments need to note a change from the County General Fund to the COIT Distributive Share Fund: Clerk, Community Corrections, Judicial Services, EMA; Prosecutor, Sheriff, Probation and Highway COIT.

Dawn will once again fill out the 2013 change forms for your signatures.

If you have questions please contact Robin Mills at 770-4424.

1178 1310 PARK NON-REV GIFT/DONATION
0000 General

Account Number		2013 Department Requ	2013 Adjustments	2013 Adopted
0000.2000	SUPPLIES			
0000.0000.2200	Operating Supplies	1,500.00	0.00	1,500.00
0000.0000.2300	Repairs & Maintenance	1,500.00	0.00	1,500.00
Total	SUPPLIES	3,000.00	0.00	3,000.00
0000.3000	OTHER SERVICES AND CHARGES			
0000.0000.3001	Professional Services	24,000.00	0.00	24,000.00
0000.0000.3500	Outsourced Repairs and Maintenance	3,000.00	0.00	3,000.00
Total	OTHER SERVICES AND CHARGES	27,000.00	0.00	27,000.00
0000.4000	CAPITOL OUTLAYS			
Total	CAPITOL OUTLAYS	0.00	0.00	0.00
Total	General	30,000.00	0.00	30,000.00
Total	1310 PARK NON-REV GIFT/DONATION	30,000.00	0.00	30,000.00
	Grand Total	30,000.00	0.00	30,000.00

1179 9514 PARK NON REVERTING OPERATING
0000 General

Account Number		2013 Department Requ	2013 Adjustments	2013 Adopted
0000.2000	SUPPLIES			
0000.0000.2100	Office Supplies	4,000.00	0.00	4,000.00
0000.0000.2200	Operating Supplies	12,000.00	0.00	12,000.00
0000.0000.2300	Repairs & Maintenance	35,750.00	0.00	35,750.00
Total	SUPPLIES	51,750.00	0.00	51,750.00
0000.3000	OTHER SERVICES AND CHARGES			
0000.0000.3001	Professional Services	49,500.00	0.00	49,500.00
0000.0000.3500	Outsourced Repairs and Maintenance	48,750.00	0.00	48,750.00
Total	OTHER SERVICES AND CHARGES	98,250.00	0.00	98,250.00
0000.4000	CAPITOL OUTLAYS			
Total	CAPITOL OUTLAYS	0.00	0.00	0.00
Total	General	150,000.00	0.00	150,000.00
Total	9514 PARK NON REVERTING OPERATIN	150,000.00	0.00	150,000.00
	Grand Total	150,000.00	0.00	150,000.00

1219 1301 PARK & RECREATION FUND
0000 General

Account Number		2013 Department Requ	2013 Adjustments	2013 Adopted
0000.1000	PERSONNEL			
0000.0000.1006	Executive B	78,201.00	0.00	78,201.00
0000.0000.1010	PAT A	146,022.00	0.00	146,022.00
0000.0000.1011	PAT B	44,794.00	0.00	44,794.00
0000.0000.1012	PAT C	57,254.00	0.00	57,254.00
0000.0000.1017	COMOT C	27,100.00	0.00	27,100.00
0000.0000.1019	COMOT E	35,691.00	0.00	35,691.00
0000.0000.1027	LTC C	64,775.00	0.00	64,775.00
0000.0000.1028	LTC D	38,030.00	0.00	38,030.00
0000.0000.1029	LTC E	71,378.00	0.00	71,378.00
0000.0000.1200	Overtime	16,854.00	0.00	16,854.00
0000.0000.1300	Part Time up to $12.50 per hour	525,000.00	0.00	525,000.00
0000.0000.1309	Per Diem	11,550.00	0.00	11,550.00
0000.0000.1313	Part Time Lifeguards (30)	37,873.00	0.00	37,873.00
0000.0000.1345	Performance Pay	14,000.00	0.00	14,000.00
0000.0000.1401	Social Security	89,392.00	0.00	89,392.00
0000.0000.1402	Group Insurance	315,126.00	0.00	315,126.00
0000.0000.1501	Retirement Benefits	81,689.00	0.00	81,689.00
Total	PERSONNEL	1,654,729.00	0.00	1,654,729.00
0000.2000	SUPPLIES			
0000.0000.2100	Office Supplies	18,500.00	0.00	18,500.00
0000.0000.2200	Operating Supplies	261,449.00	0.00	261,449.00
0000.0000.2300	Repairs & Maintenance	85,500.00	0.00	85,500.00
Total	SUPPLIES	365,449.00	0.00	365,449.00

1219 1301 PARK & RECREATION FUND
0000 General

Account Number		2013 Department Requ	2013 Adjustments	2013 Adopted
0000.3000	OTHER SERVICES AND CHARGES			
0000.0000.3001	Professional Services	114,000.00	0.00	114,000.00
0000.0000.3100	Communication and Transportation	56,000.00	0.00	56,000.00
0000.0000.3200	Printing and Advertising	25,000.00	0.00	25,000.00
0000.0000.3300	Insurance	388,081.00	0.00	388,081.00
0000.0000.3400	Utility Service	190,000.00	0.00	190,000.00
0000.0000.3500	Outsourced Repairs and Maintenance	93,500.00	0.00	93,500.00
0000.0000.3600	Rentals	6,000.00	0.00	6,000.00
Total	OTHER SERVICES AND CHARGES	872,581.00	0.00	872,581.00
0000.4000	CAPITOL OUTLAYS			
0000.0000.4200	Infrastructure	60,000.00	0.00	60,000.00
0000.0000.4300	Buildings	273,000.00	0.00	273,000.00
0000.0000.4400	Improvements Other Than Buildings	67,000.00	0.00	67,000.00
Total	CAPITOL OUTLAYS	400,000.00	0.00	400,000.00
0000.8000	UNAPPROPRIATED			
Total	UNAPPROPRIATED	0.00	0.00	0.00
Total	General	3,292,759.00	0.00	3,292,759.00

Form Prescribed by
State Board of Accounts

County Form No.144 (1971)

STATEMENT OF SALARIES AND WAGES
PROPOSED TO BE PAID OFFICERS AND EMPLOYEES
Calendar Year 2013

1219 Park & Recreation, Hamilton County, Indiana

The following statement shows the salaries and wages proposed to be paid to officers and employees of the above named office, department, board or agency during the calendar Year 2013:

FULL TIME SALARIED OFFICERS AND EMPLOYEES

Title of Position or Employee Classification	Number	Rate of Monthly Salary	Total Annual Salaries	FOR PAYROLL PURPOSES Hourly Rate	Overtime Rate
		0.00		0.00	0.00
		0.00		0.00	0.00
		0.00		0.00	0.00
		TOTAL	0		

PART TIME AND HOURLY RATED EMPLOYEES

	Title of Position or Employee Classification		Line Item		Hourly Rate	Annual Salary	OT Rate
	Part Time Laborer (19), Concessions (12)		1300		12.50	[redacted]	18.75
	Annual Compensation Park Board 7 Members		1309		$750 Annual		
	Per Diem Park Board 7 Members	$75 per mtg	1309		0.00		
	Part Time Lifeguards (30)		1313		12.50		18.75
	Performance Pay		1345		[redacted]		
Allen Patterson	Director	[redacted]	1008-01	78,201	40.10	78,201	[redacted]
Gary Knowlton	Cox Hall Manager	PAT A	1010-01	146,022	20.26	39,550	30.42
Robert Oldham	Regional Park Operations Manager	[redacted]	1010-02		20.37	39,722	[redacted]
Dan Popiela	Naturalist	PAT A	1010-03		17.12	33,375	25.67
Donald Nicholls	Resource Development Specialist	[redacted]	1010-04		17.12	33,375	[redacted]
Amanda Smith	Superintendent of Natural Resources & Educat	[redacted]	1011-01	44,794	22.97	44,794	[redacted]
B. Chris Stice	Deputy Director	[redacted]	1012-01	57,254	29.36	57,254	[redacted]
Tawny Amburgey	Administrative Technical Coordinator	COMOT C	1017-01	27,100	13.90	27,100	20.85
Alesa Cox	Office Manager / Bookkeeper	COMOT E	1019-01	35,691	16.30	35,691	27.45
Donald Moore	Equipment Operator	LTC C	1027-01	64,775	17.36	33,854	26.04
Denny Ross	Park Technician - SKP	LTC C	1027-02		15.86	30,921	23.79
Kerry Graham	Heavy Equipment Operator	LTC D	1028-01	38,030	19.50	38,030	29.25
Robert Sutton	Skilled Trades Specialist	LTC E	1029-01	71,378	19.84	38,695	29.76
Steve Shew	Skilled Trades Specialist	LTC E	1029-02		16.77	32,693	25.15
						563,245	

*Show rate of pay per month, week, day, hour, etc.

Allen Patterson
Signature

Date: June 29, 2012

Director
Title

NOTES:

1) This statement must be filed IN DUPLICATE with the County Auditor on or before July 1 each year for salaries and wages to be paid in the ensuing year.

2) The number and salaries to be paid full time officers and employees must be fixed by the County Council. The rates of pay for part time and hourly employees shall likewise be fixed by the County Council but the number to be employed is limited only by the funds appropriated therefor; thus, the amount to be requested in the budget for part time and hourly employees need not be included in this statement.

3) The County Auditor shall complete the reverse side of this form and return one copy to the officer or head of the department, board or agency within 3 days after action thereon by the County Council.

Tarler, David <david_tarler@nps.gov>

Hamilton County Dept. of Parks and Recreation's Resquest for Mitigation of Civil Penalty

1 message

Stephen Andrews <sandrews@bbanda.com> Thu, Jan 9, 2014 at 6:06 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>
Cc: "Allen W. Patterson" <allen.patterson@hamiltoncounty.in.gov>, Andrew T. Prather (b)(6)

Mr. Tarler;

I am attaching our request for mitigation of civil damages and the supporting documentation for your consideration. Thank you again for your guidance in this, we hope, final stage of the process. Best personal regards, Steve Andrews

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged.

THIS IS AN ATTEMPT TO COLLECT A DEBT. THE COMMUNICATION IS FROM A DEBT COLLECTOR AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE.

THE INFORMATION CONTAINED IN THIS EMAIL IS INFORMATION PROTECTED BY ATTORNEY-CLIENT AND/OR ATTORNEY/WORK PRODUCT PRIVILEGES. IT IS INTENDED SOLELY FOR THE USE AND VIEW OF THE ADDRESSEE AND THE PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY EMAIL. IF THE PERSON ACTUALLY RECEIVING THIS TRANSMISSION OR ANY OTHER READER OF THIS DOCUMENT OR ANY ATTACHMENT IS NOT THE NAMED RECIPIENT OR THE EMPLOYEE OR THE AGENT OF THE RECIPIENT AUTHORIZED TO READ THESE ITEMS, BE ADVISED THAT, ANY USE, DISSEMINATION, DISTRIBUTION, TRANSMISSION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.

IF YOU ARE NOT THE INTENDED RECIPIENT AND YOU HAVE RECEIVED THIS EMAIL IN ERROR, PLEASE REPLY TO US OR NOTIFY US IMMEDIATELY BY TELEPHONE AT 888-574-0700 AND DESTROY OR DELETE THIS COMMUNICATION AND RELATED DOCUMENT OR ATTACMENT. THANK YOU.

BB&A

ANDREWS AND COX, P.C. d/b/a

BLEECKER BRODEY & ANDREWS

Attorneys at Law

9247 N. MERIDIAN STREET, SUITE 101 • INDIANAPOLIS, IN 46260
Phone (888) 574-0700 • Fax (317) 574-0770

RONALD B. BRODEY~*
STEPHEN K. ANDREWS~
JULIA M. ANDREWS~*
JOHN C. COX~+
MICHAEL E. ANDREWS~
DENNIS V. FERGUSON~
TRACI B. SHUTTZ~
ERIC S. JUNGBAUER~^
NOELLE E. O'DONNELL*
FREDERICK S. HECHT~+
ROBYN A SHERER~
Marc A. Bleecker
(1940 – 1989)

~INDIANA +KENTUCKY #ILLINOIS
^DISTRICT OF COLUMBIA
*CERTIFIED MEDIATOR

January 10, 2014

Mr. David Tarler, Esq.
NAGPRA Enforcement Coordinator
Washington, D.C.
Via Email only

RE: Request of the Hamilton County Indiana Department of Parks and Recreation for Mitigation of Civil Penalty as to the Findings of the United States Department of the Interior dated December 6, 2013 relating to the complaints of the Miami of Oklahoma, The Shawnee Tribe and The Eastern Shawnee of Oklahoma.

Dear Mr. Tarler:

My client and I have had the opportunity to review the findings referenced above as to the allegations of the three complaining tribes. Much of what has been concluded is correct and I will not address those items. My client believes that there are several mitigating factors that may not have been considered and wishes to bring those to the attention of the Department of the Interior prior to the assessment of a civil penalty.

In 1999, the Hamilton County Department of Parks and Recreation, hereinafter the 'Park', acquired, by purchase, approximately 750 acres of land from the Dan Taylor estate. At the time of acquisition, the Park was aware that Native American tribes had occupied some of the areas along the White River at our park. Our Park Superintendent contacted by mail, several Native American tribes to introduce ourselves as the new owners of the property, to solicit their attention to the property and determine any possible connection the tribe might have or interest in the archeological development of the site. The only tribe to respond was the Miami of Indiana, a Non-NAGPRA group. In honor of the believed Miami tribal connection, the park named the property Strawtown-Koteewi Park, which we believed to be a Miami word for prairie.

Beginning in 2001 through 2011 professional archeological excavations took place on the park property under the guidance of reputable scientists holding doctorate degrees in the discipline. The most prominent archeologist conducting research at the park was Dr. Robert McCullough of Indiana University-Purdue University Fort Wayne. As noted in the findings, various artifacts were unearthed, including potentially NAGPRA defined items, at the park in this time frame. When the first of the NAGPRA defined artifacts were discovered, Park personnel and Dr. McCullough contacted the Indiana Department of Natural Resources and the State Archeologist regarding treatment to be accorded the items. They were advised on several occasions by the Indiana DNR and the State Archeologist, over the years that the excavation occurred, that no requirements were imposed on our Park Department and that there were no statutes that applied to us, including something they called NAGPRA (hereinafter 'the Act'). Relying on that advice and the fact that no other tribe had shown any interest, the park continued to consult with the Miami of Indiana on the treatment to be accorded the artifacts, including repatriation, which they performed.

It was not until the fall of 2012, when the various complaints were filed by the three NAGPRA tribes that the Park's attention was directed to the provisions of the Act and we discovered we had received bad advice. The park became focused on its responsibilities under the Act and proceeded to determine its obligations to any tribe believed associated with the property, both NAGPRA and Non-NAGPRA. In our initial attempt to comply with the Act, approximately 23 Native American tribes were noticed of the NAGPRA related discoveries at Koteewi Park. As a result of that notice, seven tribes responded; the Miami of Oklahoma, the Miami of Indiana, the Shawnee, the Eastern Shawnee, the Pokagon Band of the Potawatomi, the Delaware and the Absentee Shawnee Tribe of Oklahoma. A second notice was issued only to NAPGRA tribes.

A meeting was held in November, 2012, which the park hosted, with five of the NAGPRA recognized tribes. The Miami of Oklahoma assumed the position of spokesperson for the Native American attendees and became the lead entity for the Native Americans. A candid and frank discussion was held. After introductions and comments by the Native Americans, the park made the statement that it had been misled by advice from the State of Indiana and was now on board with our duties and responsibilities imposed by the Act. After two days of meeting, each side left with a better understanding of the concerns of the other and our relationship with each other began to go from adversarial to cooperation.

As noted in the finding, we have now had our consultation with the tribes and designated the material that should be repatriated as required by the Act. There is, however, a report from 2005 that IUPU Fort Wayne is still working on that may change the inventory of items already filed. We anticipate that there may be an amendment to the inventory, at a later date which may add to the list.

That said, the Park has done the following as acts of good faith and to facilitate cooperation and repatriation:

- We have set aside approximately .25 acres within Koteewi Park to serve as an unmarked, Native American burial ground for repatriation of the Park's material. The site has been approved by Potawatomi tribal elders and select representatives of the Miami of Oklahoma;
- We have also agreed that this repatriation area can be used by the tribes to repatriate materials from other sites;
- We are preparing informational signage which the Miami will write regarding their ancestors who lived in the area;
- We have signed an identical Memorandum of Understanding (MOU) with the Miami of Oklahoma and two of the Shawnee tribes regarding future conduct and compliance processes under NAGPRA for all park property (a copy of the Miami MOU is attached);
- We are in the process of revising our internal policy and procedure for handling and storing Native American artifacts. We are currently waiting for tribal comment;
- We have removed any and all materials from display cases that the tribes indicated might be culturally significant and require repatriation;
- Our communication with the tribes has improved and a spirit of cooperation exists.

We do not deny errors and omissions occurred on our part. However, we believe that the mistakes we made in our failure to comply with the Act stemmed primarily from the bad information we received from State and university professionals. We submit that having voluntarily gone through the process with the tribes, we have taken the lead in Indiana by coming to grips with the provisions of NAGPRA and making significant efforts to comply with the Act and deal responsibly with the sensibilities of the Native Americans. I would refer you to the letter sent to the Department of the Interior by the Miami of Oklahoma, which is submitted along with this letter. There was at no time an intention on the part of the Park to side step the Act and we believe our actions subsequent to the filing of the complaint bear this out. Thank you for considering our request.

Very truly yours,
Hamilton County Department of Parks and Recreation

By: _____
Stephen K. Andrews, Attorney for the Park

SKA\db
Attachment

Miami Tribe of Oklahoma

P.O. Box 1326–Miami, Oklahoma 74355
Ph: 918-542-1445 Fax: 918-542-7260

Via Electronic & United States Mail

September 10, 2013

David Tarler, NAGPRA Compliance Officer
National NAGPRA Program
National Park Service
1201 Eye Street, NW (8th floor)
Washington, D.C. 20005

Re: Hamilton County Parks and Recreation Department
Failure to Comply Notice

aya Mr. Tarler:

The Miami Tribe of Oklahoma submits this letter in follow up to its August 10, 2012 Notice of Failure to Comply regarding the Hamilton County Parks and Recreation Department (HCPRD), to report that HCPRD has achieved compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) and to acknowledge and express its deep appreciation for the hard work and dedication of the HCPRD in its work with the Miami and other historic tribes of Indiana.

The HCPRD and the Tribe have engaged in an extensive, on-going and collaborative effort to achieve NAGPRA compliance and to build a positive future-looking relationship over the past 12 months. This process culminated in a Federal Register Notice dated July 30, 2013 that transfers custody of the human remains and associated funerary objects found at Strawtown Koteewi Park between 2001 and 2011 to the tribes listed in the Notice at the expiration of the 30 day register notice. It is the intention of the Tribes consulted to repatriate the human remains and associated funerary objects to a site provided by the HCPRD at a time and date to be determined later.

The Miami Tribe of Oklahoma acknowledges and appreciates the hard work and dedication of the staff at the Hamilton Parks and Recreation Department to fulfill its requirements under NAGPRA. Despite a spare budget and a volunteer Board, HCPRD was focused and engaged in the compliance and consultation process. In consultation, the Park staff and the representatives of the tribes produced a detailed assessment of the human remains and associated funerary objects listed in the register notice. It is the consensus of the consulting parties that the inventory submitted to National NAGPRA is

a comprehensive list of the human remains and associated funerary objects recovered at Strawtown Koteewi Park during the years listed in the notice.

Moreover, as an acknowledgement of the commitment that the parties have to their future relationship, HCPRD and the Tribe entered into a Memorandum of Understanding with the Miami Tribe which details the future NAGPRA reporting and consultation requirements for the Parks Department (see attached copy). Further, the HCPRD offered the tribes a repatriation location so that the remains and objects returned to the tribes as a result of this process can be repatriated in as close proximity to their original location as possible.

The Miami Tribe submits this communication to advise of this important progress and to inform that a detailed *Joint Status Report*, prepared by the Tribe and HCPRD, will be submitted to your attention next week. I am available to you if you have any questions.

Nipwaahkaalo,

Douglas G. Lankford, Chief

cc: Terry Prather, HCPRD Board
Steven Andrews, Esq., HCPRD
Joseph Halloran, Esq.

MEMORANDUM OF UNDERSTANDING

between

THE MIAMI TRIBE OF OKLAHOMA

and

HAMILTON COUNTY INDIANA DEPARTMENT OF PARKS AND RECREATION

FOR NOTIFICATION, CONSULTATION, TREATMENT, HANDLING AND STUDY OF NATIVE AMERICAN HUMAN REMAINS AND CULTURAL OBJECTS and DISPOSITION AND REPATRIATION UNDER REQUIREMENTS OF THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

WHEREAS, a purpose of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001-3013 (1990) is to develop a systematic process for determining the rights of lineal descendants and Indian Tribes to certain human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony with which they are affiliated, and to expedite the repatriation and reinterment of those human remains and associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony; and

WHEREAS, the Miami Tribe of Oklahoma (the Tribe) is a federally-recognized sovereign tribal government whose aboriginal homelands covered much of what now comprises the State of Indiana, and recognizes those American Indians who lived in its aboriginal homelands throughout history as ancestors; and

WHEREAS, Hamilton County Department of Parks and Recreation (HCPDR or the Park), a county institution, has possession of, and/or control over, human remains, funerary objects, sacred objects, or objects of cultural patrimony and receives federal funds and must comply with NAGPRA; and

WHEREAS, HCDPR is a museum within the meaning of NAGPRA because it has possession of Native American human remains, funerary objects, sacred objects and objects of cultural patrimony and received federal funds; and

WHEREAS, HCDPR is currently curating Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony, until repatriation takes place; and

WHEREAS, HCDPR has, or may have, on-going activities related to (HCDPR) collections affiliated with the Tribe, such as requests for research and analysis, curatorial contracts with other agencies or museums that have, or may have, control over Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony, which HCDPR acknowledges are considered by the Tribe to be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has, or may have, on-going activities that involve the display of items on loan from other institutions, which could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that are considered by the Tribe to be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has in the past and expects in the future to have offers from private parties to donate items that could include associated or unassociated funerary objects sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe; and

WHEREAS, HCDPR has compilations of related scientific, ethnographic, and historical information collected over time from these collections that is significant to archaeologists, anthropologists, and historians and also significant to Native Americans in understanding their heritage; and

WHEREAS, the Tribe asserts, and the Park recognizes the right of the Tribe to notice, consultation and repatriation of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony identified, by a preponderance of the evidence, as being affiliated with the Tribe; and

WHEREAS, the Tribe, whose aboriginal and treaty lands encompass all of Hamilton County, asserts, and the Park recognizes, the right under the NAGPRA to repatriate Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony identified through the consultation process as being culturally unidentifiable; and

WHEREAS, the Tribe maintains cultural beliefs that raise concern regarding the excavation and research of Native American human remains solely for the purpose of scientific study and objects to HCDPR holding Native American remains in indefinite and lonely storage; and

WHEREAS, the Tribe and HCDPR have engaged in extensive and ongoing consultations about NAGPRA compliant processes and have determined to enter into this Memorandum of Understanding to establish specific procedures for notification, consultation, treatment, handling, and study of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony; disposition and repatriation of Native American human remains and cultural objects identified, which the Park recognizes as being claimed by the Tribe as being culturally affiliated with the Tribe; and

WHEREAS, HCDPR agrees to prepare a summary and maintain a current inventory of all Native American human remains and associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony in its possession or under its control, as mandated under provisions NAGPRA, and, after consultation with the Tribe, to submit copies of said summary and inventory to the Miami Tribe of Oklahoma and the Manager, National NAGPRA Program; and

WHEREAS, HCDPR agrees to identify those Native American human remains and associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony that, and after consultation with the Tribe, as mandated under provisions of NAGPRA, are claimed as being affiliated with the Tribe; and

WHEREAS, the Parties agree that the terms of this Memorandum of Understanding will be binding on any entity engaged in ground disturbing activities at HCDPR, and that permission to engaged in such activity will only be granted by HCDPR to those entities that first expressly subscribe and bind themselves to the requirements of this Memorandum of Understanding.

NOW, THERFORE, HCDPR and the Tribe agree that the following stipulations and procedures shall be followed for the notification, consultation, treatment, handling, and study of Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony and for the disposition and repatriation of Native American human remains and cultural objects identified, based on a preponderance of the evidence, as being claimed by the Tribe as being culturally affiliated with the Tribe and that the provisions of this Memorandum of Understanding create and establish mutual rights in the parties:

DEFINITIONS

As used in this Memorandum of Understanding,

"Castor Farm": That area at Koteewi-Strawtown Park currently defined as 12-H-3, as depicted on the Map attached hereto as **Appendix 1** and which is owned and operated by HCDPR in Northern Hamilton County, Indiana.

"Cultural Items" means Native American human remains, associated funerary objects, unassociated funerary objects, sacred objects, objects of cultural patrimony.

"Culturally Affiliated" means Cultural Items with a shared group identity that can be reasonably traced historically or prehistorically between the Tribe and an identifiable earlier group by a preponderance of the evidence -- based on geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion.

"Culturally Unidentifiable" means Cultural Items for which no culturally affiliated present-day Indian tribe or Native Hawaiian organization can be determined.

"Enclosure": That area at Koteewi-Strawtown Park currently defined as 12-H-883, as depicted on the Map attached hereto as **Appendix 1**, and which is owned and operated by HCDPR in Northern Hamilton County, Indiana.

"Excavation" means the intentional disruption of ground that is either undertaken to research archeology, anthropology or to determine whether the location contains human remains or Cultural Items or Sacred Objects, and also means the intentional disruption of group for any other reason and disturbs the ground at greater than a 1 foot depth.

"HCDPR" or "the Park" means the Hamilton County Department of Parks and Recreation, a political subdivision of Hamilton County, Indiana.

"NAGPRA" or "Act" means the Native American Grave Protection and Repatriation Act,25 U.S.C. 3001 et seq. and all regulations promulgated thereunder, specifically including those at 43 C.F.R. Part 10.

"Objects of Cultural Patrimony" means an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such

object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

"Sacred Objects" means Specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

"Tribe" means the Miami Tribe of Oklahoma, a sovereign, federally-recognized, self-governing Indian Tribe.

Terms not defined herein by the parties shall be defined according to the definitions found in the NAGPRA or the federal regulations implementing the Act. If neither this MOU nor the NAGPRA or its implementing regulations provide a definition, the term shall be defined according to its plain and ordinary meaning.

STIPULATION

I. ROUTINE COMMUNICATION.

A. HCDPR shall comply with all applicable federal laws in instances where Native American human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony may be or are encountered.

B. HCDPR shall give notice, provide relevant information and consult with the Tribe regarding, at a minimum, the following:

1. Any proposed undertaking for which the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is required;

2. Any proposed Excavation in the Castor Farm or the Enclosure area depicted on the Map attached hereto as **Appendix 1,** and all areas of known Native American occupation or habitation;

3. Any proposed Excavation outside of the Castor Farm or the Enclosure area that has been assessed under the National Historic Preservation Act and found to be an area of known Native American occupation and habitation that involves previously undisturbed soil that has not been surveyed for historical properties and would disturb ground at a depth greater than 1 foot or otherwise within the generally accepted plow zone;

4. Any proposed undertaking in which the area has been adequately surveyed for historical properties and that survey reflects that the area contains or is likely to contain areas of known Native American occupation and habitation, human remains or cultural or sacred objects, as defined in the NAGPRA;

5. Any discovery of Native American Cultural Items as defined herein that predate European contact, made as a result of soil disturbing activity. This will provide the Tribe an opportunity to consult on whether the discovered materials are of religious or cultural significance;

6. If HCDPR intends to include, in any, display items on loan from a third party that could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe. HCDPR will not display Native American human remains on loan from a third party; and

7. If a party offers to donate items to the HCDPR which items could include associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony that may be culturally affiliated with the Tribe, the HCDPR will provide a report of such offers, including a listing and photograph of the items, and the Tribe and HCDPR will consult on and determine the appropriate disposition of the items.

C. The HCDPR and the Tribe shall have regular, periodic meetings to assess and discuss the activities covered by this MOU and, if necessary, to resolve any concerns or disagreements arising pursuant to those activities or the interpretation of either party's obligations under this MOU. Such meetings shall occur not less than semi-annually and shall occur at a mutually agreeable location, beginning April, 2014.

D. The parties shall initiate and maintain consultation through telephone, facsimile, electronic mail, and face-to-face meetings. Without limiting any right to communication, the parties shall reply to the other party within thirty (30) days should any issue or inquiry be raised during routine communication by either party.

II. SPECIAL COMMUNICATION.

A. The Tribe and HCDPR agree that the procedures for the discovery of human remains or cultural objects as a result of intentional archaeological excavation and by accidental discovery will be governed by the provisions of NAGPRA and its implementing regulations as follows:

1. Intentional Archaeological Excavation: With regard to the intentional archeological excavation, if human remains, funerary objects, sacred objects or objects of cultural patrimony, per 43 C.F.R. §10.3 (Intentional Archaeological Excavations) are discovered, HCDPR shall:

   a. Not undertake any further excavation within the area of discovery (See Section II.B.2) without notification to and consultation with the Tribe per 43 C.F.R. §10.5. The parties intend that the provision of notice hereunder will be provided through a daily log that will be kept and provided to the Tribe on at least a weekly basis and that consultation about those logs will be established by the parties through protocols;

   b. Ensure that disposition of any Native American human remains or Cultural Objects shall be consistent with 43 C.F.R. §10.6 (Custody); 10.14 (Lineal Descent and Cultural Affiliation); and

   c. The Tribe shall be notified first by electronic mail, facsimile, or telephone AND also by overnight delivery as follows:

Primary Contact:	Chief Miami Tribe of Oklahoma 202 S. Eight Tribes Trail Miami, Oklahoma 74354 (918) 542-1445 Ext. 1360
With Copies to:	Cultural Resources Officer Miami Tribe of Oklahoma 202 S. Eight Tribes Trail Miami, Oklahoma 74354 (918) 542-1445 Ext. 1399

General Counsel
Miami Tribe of Oklahoma
202 S. Eight Tribes Trail
Miami, Oklahoma 74354
(918) 542-1445 Ext. 1399

Tribal Historic Preservation Officer
Miami Tribe of Oklahoma
202 S. Eight Tribes Trail
Miami, OK 74354
(317) 625-1288

2. Discoveries Not Resulting From Intentional Archaeological Excavations (Accidental Discoveries): The parties agree that the handling of all discoveries of human remains, funerary objects, sacred objects, or objects of cultural patrimony, resulting from activities other than Intentional Archaeological Excavation (Accidental Discoveries) will comply with the requirements of 43 C.F.R. §10.4 applicable to "Inadvertent Discoveries" as follows, irrespective of whether those discoveries occur as a result of activities on tribal or federal lands or lands held by state or local governments or by private parties:

   a. Within a reasonable time of discovery not to exceed 5 business days, notify the Tribal Chief and Cultural Resources Director by electronic mail, facsimile or telephone and send written correspondence by overnight mail to the Tribal Chief and Cultural Resources Director if requested by the Cultural Resources Director;

   b. Take all reasonable means to protect and safeguard the human remains or cultural objects;

   c. Consult with the Tribe per 43 C.F.R. §10.5 (Consultation);

   d. If the human remains, funerary objects, sacred objects or objects of cultural patrimony must be excavated or removed, follow the requirements and procedures in 43 C.F.R. §10.3 (b) (Intentional Archaeological Excavations); and

   e. Make disposition consistent with 43 C.F.R. §10.6 (Custody); 10.10 (Repatriation); and 10.14 (Lineal Descent and Cultural Affiliation).

B. The Tribe and HCDPR agree to adopt protocols relating to the discovery of human remains, within one year from the execution of this MOU, or at a later date to which the parties mutually agree:

1. Individuals making the discovery, who are officers, employees or agents of the HCDPR shall first contact the appropriate law enforcement agency and immediately notify the HCDPR Director. If a discovery is made or appears to have been made by trespassers, or other nefarious actors, the parties will consult on the matter and, where appropriate, a report will be made to the DNR, appropriate local law enforcement and, where appropriate, federal authorities; and

2. In the event of an accidental discovery that is determined not to be related to a crime, all ground disturbing activities within 30 foot radius of the discovery shall cease and the Tribe shall be notified immediately by phone and the provisions of Section II.A.2.

III. CONSULTATION.

In each instance of intentional excavation or accidental discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony, the Tribe and HCDPR agree that HCDPR will comply with 43 C.F.R. §10.5 (Consultation), as follows:

A. Consult with the Tribe as a tribe whose aboriginal lands comprise lands where HCDPR activities occur;

B. Notify the Tribe by telephone and send written correspondence through electronic mail, facsimile, or telephone, AND also by overnight mail; and

C. Consult with the Tribe which shall include an opportunity for the parties to consider and discuss the proposed treatment of the human remains, funerary objects, sacred objects, objects of cultural patrimony and the disposition of the remains or objects uncovered by means of intentional excavation or inadvertent discovery.

IV. CUSTODY.

Priority for custody of any human remains, funerary objects, sacred objects, or objects of cultural patrimony uncovered by means of intentional excavation or accidental discovery shall be with lineal descendants or the Native American tribe with the closest cultural affiliation as determined by 43 C.F.R. §10.14(c).

V. TREATMENT, CARE AND HANDLING OF NATIVE AMERICAN HUMAN REMAINS, ASSOCIATED AND UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY.

A. Human remains shall be treated with the utmost care and respect. Human remains should not be separated from their associated funerary objects. If human remains have been separated from objects found with them, every effort should immediately be made to bring the associated objects and remains back together in one place. In some cases, this may mean coordinating with an outside agency or museum to which these objects have been loaned. If removed, human remains should be wrapped in cloth, preferably red cloth.

B. Associated funerary objects shall be treated with the utmost care and respect. Often Native American burials, as archaeological features, still contain evidence of ceremonial practices. These practices still have special meaning to the Tribe today. Associated objects may be personal belongings that the deceased needed for his or her journey or use in the afterlife or they may be the material remains of the ritual acts of other family and community members who were in attendance at the burial and that were intended never to be disturbed. Objects may appear "ceremonial" in nature or they may simply appear to be accidental inclusions of unrelated debris. Objects may have been placed in the grave feature with the deceased, or placed slightly above the body, or placed on the ground surface above the grave. Thus, Items that are found within and above any grave feature shall be considered associated funerary objects and should remain together with human remains, with all soil and fill left in place at the site of the discovery.

C. Unassociated funerary objects shall be treated with the utmost care and respect. Unassociated funerary objects, by definition, have been separated from their human remains. Every effort should be made to determine whether the classification is appropriate.

If another facility or museum is housing the human remains associated with the funerary objects, or the location of the remains is otherwise known, the Tribe and HCDPR shall treat the objects held by HCDPR as associated funerary objects. HCDPR shall make every effort to bring the human remains and "unassociated" funerary objects back together in the HCDPR curatorial facility, unless the human remains have not been exhumed, in which case they should be left *in situ*. This effort shall include coordinating with other museums or facilities that have either funerary objects or human remains on loan.

D. Sacred objects will be treated with the utmost care and respect. Sacred objects have strong religious meaning and symbolism to the Tribe. Examples of sacred objects are any items that are found with or are otherwise associated with burials, any items excavated from ritual or ceremonial contexts, and any items collected ethnographically and recognized by the Tribe as sacred objects. HCDPR shall contact the Tribe with any proposed plans for moving, handling, exhibiting or researching sacred objects.

E. Objects of cultural patrimony will be treated with the utmost care and respect and be identified on a case-by-case basis by the Tribe's THPO or Cultural Preservation Officer. Objects of cultural patrimony are generally, although not always, found in ethnographic collections. An object of cultural patrimony is one having an ongoing historical, traditional, or cultural importance to the Tribe, as opposed to property owned by an individual Native American. Because of its importance to the Tribe as a whole, it cannot be, or cannot have been, alienated, appropriated, or conveyed by any single individual, regardless of whether or not such an individual is or was a member of the Tribe. An object of cultural patrimony shall have been considered inalienable by the Tribe at the time the object was separated from the Tribe.

VI. CONDUCT AT EXCAVATION SITES.

A. The utmost caution and respect shall be maintained during any intentional archeological excavation and any excavation following an accidental discovery. During any such archaeological undertaking, project staff, volunteers, students, and public citizen participants shall act in a respectful and responsible manner in regard both to the cultural materials and human remains contained in the archaeological sites (i.e., the "archaeological record").

B. Archaeological undertakings by HCDPR can provide opportunities to educate others about traditional Native American viewpoints toward the archaeological record and the practice of archaeology itself. Because the archaeological record contains the material references of the past behaviors and beliefs of the Tribe's

ancestors, the Tribe and HCDPR will both use their best efforts to encourage participants to practice courteous behavior while surveying and recording archaeological information, excavating, taking samples, performing laboratory work, and related tasks – and particularly whenever human remains are involved.

C. The Tribe and HCDPR agree that sites that are delineated as archaeological sites today are places where the Tribe's ancestors were born, lived their lives, engaged in their religious beliefs, died, and were buried. They are, therefore, places of solemnity and reverence that warrant behavior that is consistent with such places. To try and instill on the public this solemnity and reverence, HCDPR and the Tribe will erect such signage as in the Tribe's opinion will reflect and encourage this attitude.

VII. REQUESTS FOR RESEARCH AND ANALYSIS, CURATORIAL CONTRACTS WITH OTHER FACILITIES AND MUSEUMS, AND ANY SCIENTIFIC INFORMATION GATHERED OVER TIME FROM COLLECTIONS.

A. Requests for Research on Native American Human Remains, Associated and Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony: HCDPR shall notify and consult with the Tribe before responding to any request to analyze human remains, associated and unassociated funerary objects, sacred objects, or objects of cultural patrimony in HCDPR's possession.

B. Curatorial Contracts with Other Agencies and Museums: HCDPR shall notify and consult with the Tribe before entering into any curatorial contracts or agreements with other agencies, facilities, private donors, museums, or similar entities that pertain to any human remains, funerary objects, sacred objects, or objects of cultural patrimony that, by a preponderance of the evidence, are affiliated with the Tribe.

C. Scientific Information Gathered Over Time From Collections: The HCDPR has information regarding research pertaining to the human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural in its control and/or possession, including but not limited to: draft and final research reports; donor information; archaeological excavation and collection notes, forms, and related records; analyses records; correspondence; contracts; research proposals; photographic records; various hand- and computer-generated drawings; site maps; accession and catalog records; and other curatorial and administrative records. This information is valuable and pertinent to an understanding of the prehistory

and history of the Tribe. The HCDPR thus shall provide reasonable access to and accommodation for the examination of these records on by the Tribe, should the Tribe make such a request for the information.

VIII. DISPOSITION - ACCIDENTIAL AND INTENTIONAL DISCOVERIES.

The Tribe and HCDPR agree that the procedures for Custody (43 C.F.R. §10.6), Repatriation (43 C.F.R. §10.10) and Lineal Descent and Cultural Affiliation (43 C.F.R. §10.14) will be governed by the provisions of NAGPRA and its implementing regulations.

IX. SUMMARIES - UNASSOCIATED OBJECTS.

HCDPR will comply with 43 C.F.R §10.8 (Summaries) requirements, at a minimum, as follows:

A. Complete and maintain summaries of each and every unassociated funerary object, sacred object, or objects of cultural patrimony;

B. Consult with tribes who are likely culturally affiliated with the objects and from whose aboriginal lands the objects originated. Consultation shall be initiated upon completion of the summary process by letter, with follow-up telephone contact;

C. Provide copies of the summary to lineal descendants, when known, to the Tribe and to the Manager, National NAGPRA Program; and

D. Prior to any repatriation of any unassociated funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants or culturally affiliated tribes, HCDPR shall submit to the Manager, National NAGORA Program, a notice of intent to repatriate, which shall be published in the Federal Register.

X. INVENTORIES - HUMAN REMAINS AND ASSOCIATED OBJECTS.

A. HCDPR shall complete and maintain inventories of any human remains and associated funerary objects over which it has possession or control and shall identify the geographical origin and cultural affiliation of each item consistent with the requirements of 43 C.F.R §10.9 (Inventories).

B. HCDPR shall consult with parties to include lineal descendants or tribes who are likely culturally affiliated; from whose aboriginal lands the remains/associated objects originated; or from whose current tribal lands the remains or associated objects originated.

C. HCDPR shall maintain separate inventories for 1) Human remains and associated funerary objects that are identified as culturally affiliated with one or more present-day tribes, and 2) Human remains and associated funerary objects for which no culturally affiliated present-day tribe can be determined.

D. HCDPR shall notify the Tribe no later than six (6) months after completion of the inventory, if the inventory process results in identification or likely identification of cultural affiliation with the Tribe of human remains or associated funerary objects.

E. A copy of the inventory completion shall be sent to the Tribe and the Manager, National NAGPRA Program, in both print and electronic copy.

F. HCDPR shall submit to the Tribe and the Manager, National NAGPRA Program, a list of all human remains and associated funerary objects which cannot be identified as affiliated with a particular tribe.

XI. REPATRIATION - UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS AND OBJECTS OF CULTURAL PATRIMONY.

A. Upon request of the Tribe, the Park and the Tribe will expeditiously repatriate unassociated funerary objects, sacred objects and objects of cultural patrimony pursuant to the provisions of 43 C.F.R. §10.10 (Repatriation), if the following conditions are met:

1. The object meets the definitions established in 43 C.F.R.§10.2(d)(2(ii), (d)(3), or (d)(4);

2. The cultural affiliation of the object is established:

    a. Through the summary, consultation, and notification procedures in 43 C.F.R §10.14 (Lineal Descendent and Cultural Affiliation) of the NAGPRA implementing regulations; or

b. By presentation of a preponderance of the evidence by the Tribe pursuant to section 7(c) of the Act;

3. HCDPR is unable to present evidence proving that it does have a right of possession, and

4. None of the specific exemptions listed in 43 C.F.R §10.10(c) apply.

B. Repatriation must take place within 90 days of the receipt of a written request from the Tribe, per 43C.F.R. §10.10(3), provided that repatriation may not occur until at least 30 days after publication of the notice of intent to repatriate in the Federal Register, as described in C.F.R. §10.8. The parties acknowledge that periods of severe weather may delay repatriation.

XII. REPATRIATION - HUMAN REMAINS AND FUNERARY OBJECTS.

A. Upon request of the Tribe and per 43 C.F.R §10.10(b), HCDPR must expeditiously repatriate human remains and associated funerary objects if the following conditions are met:

1. The human remains or associated funerary objects meet the definitions established in 43 C.F.R.§10.2(d)(1) (Definitions) or (d)(2)(4);

2. The affiliation of the deceased individual to the Tribe:

a. Has been reasonably traced through procedures outlined in 43 C.F.R §10.9 (Inventories); and 43 C.F.R.§10.14 (Lineal Descent and Cultural Affiliation); or

b. Has been demonstrated by a preponderance of the evidence, as presented by the Tribe, pursuant to section 7(c) of the Act; and

3. None of the specific exemptions in 43 C.F.R. §10.10 (c) (Repatriation) apply.

B. Repatriation shall take place within 90 days of receipt of a written request from the Tribe, per 43 C.F.R.§10.10(b)(2), provided that repatriation may not occur until at least 30 days after publication of the notice of intent to repatriate in the Federal Register, as described in 43 C.F.R. §10.9. The parties acknowledge that periods of severe weather may delay repatriation. The parties further agree that, in the event

HCDPR receives requests for repatriation from more than one tribe, it may reasonably await a determination by the tribes regarding how repatriation will proceed. The Tribe will provide the HCDPR notice of the inter-tribal decision and, if the Tribe is to proceed with repatriation, the parties will endeavor to complete repatriation within 45 days of the Tribe's written notice of the inter-tribal repatriation decision. If the inter-tribal decision delays repatriation beyond 90 days from receipt of the written request from the Tribe, the Tribe agrees that such delay shall not constitute a violation of this Memorandum of Understanding.

C. The parties shall acknowledge and abide by exceptions to requirements for repatriation outlined in 43 C.F.R. §10.10(c).

D. HCDPR shall consult with the Tribe to determine the place and manner of repatriation per 43 C.F.R. §10.10(d).

E. HCDPR shall inform the Tribe of any known treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony with pesticides, preservatives, or other substances, as some substances represent a potential hazard to the objects or to persons handling the objects per 43 C.F.R. §10.10(e).

F. The parties agree that information relating to the location of historic and archeological sites, including the discovery and repatriation of associated or unassociated funerary objects, sacred objects, objects of cultural patrimony or human remains constitute sensitive information that should not be made available to the general public pursuant to 43 C.F.R. §10.10(f)(2) and qualify to be determined as confidential by the director of the Indiana Division of Historic Preservation pursuant to Indiana Code, Section 14-21-1-32, and agree jointly to attempt to secure such a formal determination by the Division Director.

G. HCDPR shall report to the Manager, National NAGPRA Program, any and all culturally unidentifiable human remains so that the National NAGPRA Program Review Committee can recommend actions for their disposition to the Secretary of Interior per 43 C.F.R. §10.10(e).

XIII. DISPUTE RESOLUTION.

A. Mediation. If any dispute arises under this Memorandum of Agreement, the parties shall first attempt to resolve their differences through mediation. Such mediation shall occur within 45 days from the date that either party requests mediation in writing. The mediation period shall close 15 days after it is begun. If no resolution is reached, the parties may then pursue other remedies.

B. Binding Neutral Determination. If the parties agree, they may submit an issue in dispute to National NAGPRA for an interpretation, which the parties agree will be a binding resolution of the issue submitted.

C. Choice of Forum. If the parties are unable to resolve their dispute through mediation, the parties agree that disputes may be submitted to the exclusive jurisdiction of the United States District Court for the Southern District of Indiana.

D. Choice of Law. This Agreement and all matters or issues collateral thereto shall be construed, governed by, and interpreted in accordance with the laws of the State of Indiana applicable to contracts executed without regard to conflicts of law principles and without any acknowledgement that such laws otherwise are applicable to the Tribe.

XIV. SEVERABILITY.

The parties have endeavored to follow the implementing regulations at 43 CFR Part 10, Native American Graves Protection and Repatriation Act of 1990, in establishing these agreed-upon procedures. In the event any provision of this Agreement is declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and shall remain in full force or effect, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

On this 26th day of August, 2013 this Memorandum of Understanding has been executed between the Miami Tribe of Oklahoma and Hamilton County, Indiana Department of Parks and Recreation.

THE MIAMI TRIBE OF OKLAHOMA

By: Hon. Douglas Lankford
Its: Chief

Witness

HAMILTON COUNTY INDIANA DEPARTMENT OF PARKS AND RECREATION

By: Andrew T. Prather
Its: President

Witness

Tarler, David <david_tarler@nps.gov>

Strawtown-Koteewi Park Appsl Value

1 message

Stephen Andrews <sandrews@bbanda.com> Fri, Jan 10, 2014 at 9:15 AM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>

Mr. Tarler,

I omitted sending you a value for the acreage for the amount of property being dedicated to the Native American repatriation area. The attached is an appraisal for land that is abutting the Koteewi Park. The apprsl shows $9,000 per acre which x .25 acres equals $2,250.00, should the Dept be inclined to allot all or part of the value for mitigation purposes. Thank you, Steve Andrews

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

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DISCUSSION OF COMPARABLE SALES GRIDS

AND DETERMINATION OF VALUE

FROM THE MARKET APPROACH

A total of 11 comparable sales were gathered, analyzed and evaluated in this appraisal analysis with the 4 most recent and similar sales being shown and utilized by this appraiser. The four comparable sales used in this evaluation were the closest and most recent sales of similar tillable agricultural tracts within the subjects immediate neighborhood and general market area. The comparable sales varied in size from 20.34 acres to 92.62 acres with none of the sales containing any improvements. All four comparable sales were zoned A2 or similar to the subject 24.24 acres of land. Each comparable sale was broken down to a unit price per acre and then adjusted accordingly to their likenesses and differences to the subject property. After making the necessary individual adjustments to each comparable sale. This appraiser arrived at an **adjusted unit price per acre range of $8,499 to $9,350 with an average adjusted unit price per acre of $9,010 and a median adjusted unit price per acre of $9,097.** After reviewing all four comparable sales and taking into consideration their strengths and weaknesses, it is this appraisers opinion the the subject 24.24 acre tract of land would have a similar fair market **unit price per acre value of $9,000** as of the effective date of this appraisal of July 17, 2013.

Based on this market extracted **unit price per acre of $9,000** the calculations from the Market Approach to Value for the subject 24.24 acres would look as follows:

Subject = 24.24 acres x $9,000 per acre = $ 218,160
Rounded = $ 218,200

Tarler, David <david_tarler@nps.gov>

Hamilton County Response

1 message

Stephen Andrews <sandrews@bbanda.com> Fri, Jan 10, 2014 at 1:53 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>

Mr. Tarler,

I want to be sure you are aware that we have published our inventory and have come into compliance with the Act. Thank you,

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

Indianapolis, In. 46260

tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

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Tarler, David <david_tarler@nps.gov>

Miami Concern re Pot

1 message

Stephen Andrews <sandrews@bbanda.com> Mon, Jan 13, 2014 at 1:58 PM
To: "david_tarler@nps.gov" <david_tarler@nps.gov>

Attached is the Inventory we submitted to NAGPRA and page 6 (Accn. No. 07.5) is where the pot we discussed earlier today is referenced. It is talked about in the Inventory Detail (Collection History and AFO) section. It is possible the issue is that the pot is referenced and described, but not individually listed. It is described in the AFO section, but not listed separately (gray area because we are not actually repatriating it because it is already repatriated, albeit erroneously). Do we still need to amend the Inventory and re-designate the pot? Thank you,

Stephen K. Andrews

BLEECKER BRODEY & ANDREWS

9247 N. Meridian St., Ste 101

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tx: 888-574-0700

fx: 888-574-0770

email: sandrews@bbanda.com

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NAGPRA Inventory final.doc

Strawtown Koteewi Park
NAGPRA Inventory Draft
4/19/13

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 01.71 Cat. No. 4.3, 3.4, 6.3, 12.7, 2.3, 52.0, 6.3	IN	Hamilton	1	0	During 2001 archaeological investigations at 12 H 883, six catalog numbers were identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2001 excavation year. No associated artifacts have been determined.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 02.68 Cat. No. 316, 448, 830, 859, 955, 966, 2968, 2768, 3184, 3338, 1904	IN	Hamilton	2	1	A number of isolated human remains were encountered during the 2002 excavations at the Strawtown Enclosure site. Also, a number of human remains were collected from the backdirt of an active groundhog hole within the enclosure, resulting from an apparent nearby burial. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during the construction of houses, storage pits, posthole, etc. AFO: Additionally, a dog burial was encountered and excavated. The remains of the dog are also included for repatriation as AFO.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 03.72 Cat. No. 1693, 1775, 2967, 3025, 3026 3351	In	Hamilton	2	16	A number of isolated human remains were encountered during the 2003 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavations. These consisted of Burial 1, a bundle burial; and Burial 2 and infant interment. Burial 1 and Burial 2 were exposed, documented and covered by hand with soils from the unit. Although fragments of bone were later identified in the lab. And two bones samples were retained for further analyses which are also included. Also, individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. AFO: 1 chert triangular projectile point, 1 chert unrefined biface, 1 chert nonformal uniface, 2 chert cores,	**CUI**

							1 bone awl fragment, animal bone (burned and unburned) 1 lot, flora 1 lot, detritus 1 lot, chert debitage 1 lot, pottery sherd 1 lot, flotation 1 lot, FCR 1 lot, quartzite debitage 1 lot, soil and soil sample 1 lot, heavy fraction 1 lot	
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 04.83 Cat. No. 593	IN	Hamilton	1	1	One catalog number was identified and assigned to human remains elements or fragments. No intact interments were encountered during the 2004 excavations. First incisor, Lower right, Ril. AFO: One turtle shell bowl was found in a deep storage pit later filled with refuse.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 06.98 Cat. No. 226, 971, 1666, 1699, 1718, 1861, 3924, 3925	IN	Hamilton	2	24	A number of isolated human remains were encountered during the 2006 excavations at the Strawtown Enclosure site. Additionally, two separate burials were exposed during excavation. These consisted of bundle burial and a tightly-flexed interment. The burials were exposed documented and then covered with unit soils. Two bone samples were taken for further analysis and are also included (cat. no. 3924 and 3925) AFO: 2 unrefined chert biface, 1 chert T-base drill, 1 chert core, 1 chert nonformal uniface, 1 bone tool fragment, 2 triangular projectile point, 1 pestle fragment, 1 chert biface tip, fish scale 1 lot, FCR 1 lot, ochre 1 lot, animal bone (burned and unburned) 1 lot, waste clay 1 lot, cert debitage 1 lot, flora 1 lot, shell 1 lot, pottery sherds 1 lot, detritus 1 lot, soil samples 1 lot, quartzite debitage 1 lot, burned soil 1 lot, light and heavy fraction 1 lot	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 07.5 Cat. No. 3255, 1350, 1731, 2854	IN	Hamilton	1	16	A number of isolated human remains were encountered during the 2007 excavations at Strawtown Enclosure site. The individual elements and fragments were recovered from feature and units contexts. Additionally, two interments were encountered during excavation. One interment was encountered in the central portion of the plaza. An associated funerary object, a shell tempered Taylor Village-style vessel was removed, studied, and replaced with the burial. The burial was not exposed. The other was a bundle burial. Upon discovery, no further work was completed and no effort to further expose the individual was undertaken. AFO: 1 chert nonformal uniface, 1 quartzite nonformal uniface, 2 chert unrefined biface, 1 chert triangular projectile point fragment, 1 bear tooth, 1 bear maxilla, chert debitage 1 lot, pottery sherds 1 lot, animal bone (burned and unburned) 1 lot,	**CUI**

							FCR 1 lot, flora 1 lot, quartzite debitage 1 lot, burned soil 1 lot, light and heavy fraction 1 lot, soil sample 1 lot	
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 08.1 Cat. No. 815	IN	Hamilton	1	0	One catalog number was assigned to human remains elements or fragments, one upper premolar. No intact interments were encountered during the 2008 excavation year. No associated funerary objects were recovered.	**CUI**
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Strawtown Enclosure" 12 H 883	Accn. No. 10.1 Cat. No. 2116, 2536, 5685, 2951, 6566, 6643,	IN	Hamilton	4	56	A number of isolated human remains were encountered during the 2010 excavations at the Strawtown Enclosure site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited, or discarded, etc. Additionally, three interments were	**CUI**

	6718, 7528, 3395, 4988, 7260	encountered during excavations. One interment, Feature 67 has a number of associated funerary objects and a rib sample was removed for further analysis. The second and third interments were partially exposed during excavation and upon discovery, no further work was completed and no effort to further expose the individuals was undertaken. AFO: scribed elk scapula fragments, shell tempered loop handle, rock manuport, burned soil/coil tip, chert graver fragment, animal incisor tool, scribed bone tool fragment, sandstone abrader, slate debitage, bone fish hook fragment, pitted stone with ochre residue, modified animal tooth, stone anvil with ochre residue, antler tine tool, bone indeterminate tool fragment, antler toggle, sandstone palette with ochre, antler indeterminate tool, ochre 1 lot, FCR 1 lot, chert debitage 1 lot, quartzite debitage 1 lot, flora 1 lot, waste clay 1 lot, animal bone (burned and unburned) 1 lot, pottery sherds 1 lot, light and heavy fraction 1 lot, burned soil 1 lot, fish scale 1 lot, mussel shell fragments 1 lot, refined biface fragments 1 lot, unrefined biface 1 lot, nonformal uniface 1 lot, chert triangular

							projectile points 1 lot, triangular projectile points 1 lot, quartzite projectile points 1 lot, chert nonformal uniface 1 lot, unrefined biface fragment 1 lot, chert core 1 lot, quartzite biface fragments 1 lot, chert T-base drill 1 lot, formal uniface 1 lot, hammer stone with ochre residue 1 lot, bone awl fragment 1 lot, bone tool making debris 1 lot, antler tool making debris 1 lot, intermediate bone tool 1 lot, hammer stone 1 lot, humpback knife 1 lot, drill fragments 1 lot, soil sample 1 lot, bone beamer fragments 1 lot, antler nonformal tool 1 lot, antler projectile point 1 lot, antler tine flaker 1 lot, bone beamer partial 1 lot, antler projectile point partial and unrefined 1 lot	
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn. No. 03.50 Cat. No. 127, 154, 191, 307, 502, 516, 638, 677,	IN	Hamilton	8	19	A number of isolated human remains were encountered during the 2003 excavations at the Castor Farm site. Additionally, three separate burials were exposed during excavation. These consisted of Burial 1, a partially flexed	**CUI**

	783, 845, 923, 938, 990, 1021, 1757, 2015, 2168, 537, 936, 2295, 1817, 427, 980, 349, 164, 170-176, 501	individual; Burial 2, a partially flexed individual; and Burial 3, a large bundle burial with the elements of at least five individuals. All burials were exposed documented and covered with soils from the unit. Additionally 7 bone samples were taken from burials 1-3 for further analysis, consisting of catalog numbers 170-176. Fragments of human bone were later identified in the lab. AFO: 1 triangular point fragment, 1 chert biface fragment, 1 sandstone abrader, 1 bone beamer, 1 elk beamer, 1 sandstone abrader fragment, 13 pieces of bone beamer, antler tool making debris 1 lot, chert nonformal uniface 1 lot, animal bone (burned and unburned) 1 lot, FCR 1 lot, pottery sherds 1 lot, shell 1 lot, flora 1 lot, soil (burned and unburned) 1 lot, flotation 1 lot, chert debitage 1 lot, quartzite debitage 1 lot, detritus 1 lot

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn. No. 04.62 Cat. No. 217, 458, 459, 460, 461-468, 798, 835, 857, 911, 935, 1108, 1448, 1794, 1928, 2034, 889,2050	IN	Hamilton	3	12	A number of isolated human remains were encountered during the 2004 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during the construction of houses, storage pits, postholes, etc. Additionally, one burial was partially exposed during excavation. The interment was exposed, documented, a bone sample was removed (cat. no. 2050) and covered again with soils from the unit. AFO: Shell pendant (claw shaped), 1 bone tool fragment, FRC 1 lot, pottery sherd 1 lot, chert debitage 1 lot, animal bone (burned and unburned) 1 lot, mussel shell 1 lot, flora 1 lot, light and heavy fraction 1 lot, one half of a bead, one incomplete pendant and one conch sell column.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn. No. 05.61 Cat. No. 318, 359, 384, 405, 643, 1037-1039, 1262, 1396, 1424, 1504, 1592, 1606, 1690, 1714, 1804, 310, 1609, 1386	IN	Hamilton	2	0	A number of isolated human remains were encountered during the 2005 excavations at the Castor Farm site. These items are presumed to have been secondarily deposited after they were encountered during construction of house, storage pits, postholes, etc. The greater majority were recovered from the midden fill removed from Feature 27.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn No. 06.10 Cat. No 918	IN	Hamilton	1	0	One Catalog number was identified and assigned to human remains elements or fragments. Identified as a tooth, lower premolar. No intact interments were encountered during the 2006 excavation year. No associated artifacts were recovered.	**CUI**
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn. No. 09.2 Cat. No. 2391, 1550, 3407	IN	Hamilton	1	6	Three isolated human remains were encountered during the 2009 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. Additionally, two burials were partially exposed during excavation and one feature contained disassociated human	**CUI**

							elements. All remains were left in place or were placed back in original context when it became apparent they were human. AFO: 1 cordmarked rim/vessel section, FCR 1 lot, chert debitage 1 lot, pottery sherd 1 lot, quartzite debitage 1 lot, light and heavy fraction 1 lot	
Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	"The Castor Farm Site" 12 H 3	Accn. No. 11.3 Cat. No. Not assigned	IN	Hamilton	4	0	A number of isolated human remains were encountered during the 2011 excavations at the Castor Farm site. The individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. Additionally, one burial was partially exposed during excavation. Upon encountering the burial, excavation was halted and no further effort was attempted to expose the elements. No associated funerary objects were recovered during excavations.	**CUI**

Controlling Institution or Agency Name	Site Name and or Site Number	Collection ID	Geographic Area	County	MNI	AFO	Inventory Detail (Collection History and AFO)	**Cultural Affiliation**
Hamilton County Parks and Recreation	**12 H 1052**	**Accn. No. 11.1 Cat. No. 87**	**IN**	**Hamilton**	**1**	**0**	**During 2011 excavations one catalog number was identified and assigned to human remains elements or fragments, located in an excavation unit**	**CUI**

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National NAGPRA
National Park Service

[Federal Register Volume 78, Number 146 (Tuesday, July 30, 2013)]
[Notices]
[Pages 45956-45957]
From the Federal Register Online via the Government Printing Office [www.gpo.gov]
[FR Doc No: 2013-18275]

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-13277; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Hamilton County Department of Parks and Recreation, Hamilton County, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Hamilton County Department of Parks and Recreation (here after referred to as ``Park'') has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Park. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Park at the address in this notice by August 29, 2013.

ADDRESSES: Hamilton County Department of Parks and Recreation, Attn: Mr. Allen Patterson, Director, 15513 South Union Street, Westfield, IN 46033, telephone (317) 770-4400, email allen.patterson@hamiltoncounty.in.gov .

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with

the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Park. The human remains and associated funerary objects were removed from the Strawtown Koteewi Park, Hamilton County, IN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the Park professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; and the Shawnee Tribe. The Delaware Nation, Oklahoma, did not participate in the consultation but monitored the process through an agreement with the Miami Tribe of Oklahoma.

History and Description of the Remains

Between 2001 and 2011, human remains representing, at minimum, 34 individuals were removed from Strawtown Koteewi Park in Hamilton County, IN, during field schools and by professional archaeological teams investigating archaeological sites within the property boundaries. The human remains were recovered primarily from two archaeological locations within the park boundaries, site 12 H 883 (The Strawtown Enclosure) and site 12 H 3 (The Castor Farm site). Additionally, one phalange was recovered from site 12 H 1052 in 2011. During the course of these investigations, multiple isolated human remains and several burials were inadvertently encountered. No intact burials were removed and standard archaeological procedure when encountering a burial involved either: (a) Exposing and documenting the burial or (b) once a burial was encountered, all excavations were halted in the immediate area. All burials were covered again with soils from the excavated area.

In some instances, bone samples were removed from the burials to undergo further archaeological investigation. The bone samples that were recovered are included in the human remains intended for repatriation and are reflected in the minimum number of individuals (MNI). In addition, multiple, presumably secondarily deposited, isolated human remains were encountered during archaeological fieldwork. Often, the isolated human remains were identified in the laboratory post active archaeological fieldwork. These individual elements and fragments were recovered from feature and unit contexts. These items are presumed to have been secondarily deposited after they were prehistorically encountered during construction of houses, storage pits, postholes, etc. Additionally, during the 2002 excavation year, a number of human remains were collected from the back dirt of an active groundhog hole within the enclosure.

A detailed osteological analysis of the human remains as a whole has not been completed. The human remains underwent archaeological

processing and analysis under the direction of Indiana University Purdue University at Ft. Wayne and were then turned over to Hamilton County Parks and Recreation. They currently reside at the Taylor Center of Natural History located in Strawtown Koteewi Park, where they are awaiting repatriation in a secure curation facility. No known individuals were identified. The 151 associated funerary objects were removed from the two main excavation sites, as detailed below.

From site 12 H 883, the 115 associated funerary objects are 4 lots of animal bone (burned and unburned); 1 animal incisor tool; 1 antler indeterminate tool; 1 lot of antler non-formal tool; 2 lots of antler projectile point, partial and unrefined; 1 lot of antler tine flakers; 1 antler tine tool; 1 antler toggle; 1 lot of antler tool making debris; 1 bear maxilla; 1 bear tooth; 2 lots of bone awl fragments; 2 lots of bone beamers, partial; 1 bone fish hook fragment; 1 bone indeterminate tool fragment; 1 bone tool fragment; 1 lot of bone tool making debris; 3 lots of burned soil; 1 burned soil or coil tip; 1 chert biface tip; 5 chert bifaces, unrefined; 4 lots of chert core; 4 lots of chert debitage; 1 chert graver fragment; 4 lots of chert non-formal uniface; 2 lots of chert T-base drill; 1 chert triangular projectile point fragment; 2 lots of chert triangular projectile points; 2 lots of detritus; 1 dog skeleton from a dog burial, relatively complete; 1 lot of drill fragments; 4 lots of FCR; 2 lots of fish scale; 4 lots of flora; 1 lot of flotation; 1 lot of formal uniface; 1 lot of hammer stone; 1 lot of hammer stone with ochre residue; 1 lot of humpback knife; 1 lot of intermediate bone tool; 4 lots of light and heavy fraction; 1 modified animal tooth; 1 lot of mussel shell fragments; 1 lot of non-formal uniface; 2 lots of ochre; 1 pestle fragment; 1 pitted stone with ochre residue; 4 lots of pottery sherds; 1 lot of

[[Page 45957]]

quartzite biface fragments; 4 lots of quartzite debitage; 1 quartzite non-formal uniface; 1 lot of quartzite projectile points; 1 lot of refined biface fagments; 1 rock manuport; 1 sandstone abrader; 1 sandstone palette with ochre; 1 scribed bone tool fragment; 1 scribed elk scapula fragments; 1 lot of shells; 1 shell tempered loop handle; 1 slate debitage; 4 lots of soil and soil samples; 1 stone anvil with ochre residue; 3 lots of triangular projectile points; 1 turtle shell bowl; 1 lot of unrefined biface; 1 lot of unrefined biface fragment; and 2 lots of waste clay.

From site 12 H 3, the 36 associated funerary objects are 2 lots of animal bone (burned and unburned); 1 lot of antler tool making debris; 1 bead (one half); 1 lot of bone beamer; 1 bone tool fragment; 1 chert biface fragment; 3 lots of chert debitage; 1 lot of chert non-formal uniface; 1 conch shell column; 1 cordmarked rim/vessel section; 1 lot of detritus ; 1 elk beamer; 3 lots of FCR; 2 lots of flora; 1 lot of flotation; 2 lots of light and heavy fraction; 1 lot of mussel shell; 1 pendant (incomplete); 3 lots of pottery sherd; 2 lots of quartzite debitage; 1 sandstone abrader; 1 sandstone abrader fragment; 1 lot of shell; 1 shell pendant (claw shaped); 1 lot of soil (burned and unburned); and 1 triangular point fragment.

Determinations Made by the Hamilton County Department of Parks and Recreation

Officials of the Hamilton County Department of Parks and Recreation

have determined that:

Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on archeological evidence.

Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 34 individuals of Native American ancestry.

Pursuant to 25 U.S.C. 3001(3)(A), the 151 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Delaware Nation, Oklahoma, and the Miami Tribe of Oklahoma.

Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Delaware Nation, Oklahoma, and the Miami Tribe of Oklahoma.

Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Delaware Nation, Oklahoma, and the Miami Tribe of Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Hamilton County Department of Parks and Recreation, Attn: Mr. Allen Patterson, Director, 15513 South Union Street, Westfield, IN 46033, telephone (317) 770-4400; email allen.patterson@hamiltoncounty.in.gov , by August 29, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Delaware Nation, Oklahoma, and the Miami Tribe of Oklahoma may proceed.

The Park is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Delaware Nation, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; and the Shawnee Tribe that this notice has been published.

Dated: June 11, 2013.
Sherry Hutt,
Manager, National NAGPRA Program.
[FR Doc. 2013-18275 Filed 7-29-13; 8:45 am]
BILLING CODE 4312-50-P

Back to the top

Tarler, David <david_tarler@nps.gov>

Re: Miami Concern re Pot

1 message

Soriano, Mariah <mariah_soriano@nps.gov> Mon, Jan 13, 2014 at 10:49 PM
To: "Tarler, David" <david_tarler@nps.gov>
Cc: Sherry Hutt <sherry_hutt@nps.gov>

Hamilton County inventory is listed in both the CUI db as well as the notice published July 30, 2013.
http://www.nps.gov/nagpra/FED_NOTICES/NAGPRADIR/nic1696.html

On page 6 of their inventory with respect to site 12 H 883 Accn #07.5, their collection history states "...An associated funerary object, a shell tempered Taylor Villagestyle vessel was removed, studied, and replaced with the burial." It is not however individually listed in the afo section of the inventory nor in the notice. Was it an intact vessel or part of one lot of pottery sherds? The inventory for Accn #07.5 does mention 1 lot of pottery sherds.

If the vessel is intact and not part of the 1 lot of pottery sherds, then it was not included as part of their afo count.

Mariah

Mariah Soriano
Program Officer
National NAGPRA Program
Dept. of the Interior
1201 Eye St. NW 8th floor
Washington, DC 20005
202-354-2205 office
msoriano@nps.gov

On Mon, Jan 13, 2014 at 3:16 PM, Tarler, David <david_tarler@nps.gov> wrote:

> Mariah,
>
> Greetings. Could you please confirm that the pot referenced in this email has been included in an inventory from Hamilton County (Indiana) Department of Parks and Recreation (based on the attachment, I don't see it listed)? If the pot is not included in an inventory, I would greatly appreciate your reaching out to Mr. Andrews and helping Hamilton County come into compliance. Time is of the essence. Thanks very much.
>
> David
>
> David Tarler
> Training, Civil Enforcement, and Regulations

National NAGPRA Program
National Park Service
telephone 202-354-2108
email david_tarler@nps.gov

On Mon, Jan 13, 2014 at 1:58 PM, Stephen Andrews <sandrews@bbanda.com> wrote:

> Attached is the Inventory we submitted to NAGPRA and page 6 (Accn. No. 07.5) is where the pot we discussed earlier today is referenced. It is talked about in the Inventory Detail (Collection History and AFO) section. It is possible the issue is that the pot is referenced and described, but not individually listed. It is described in the AFO section, but not listed separately (gray area because we are not actually repatriating it because it is already repatriated, albeit erroneously). Do we still need to amend the Inventory and re-designate the pot? Thank you,
>
> Stephen K. Andrews
>
> BLEECKER BRODEY & ANDREWS
>
> 9247 N. Meridian St., Ste 101
>
> Indianapolis, In. 46260
>
> tx: 888-574-0700
>
> fx: 888-574-0770
>
> email: sandrews@bbanda.com
>
> This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged.
>
> THIS IS AN ATTEMPT TO COLLECT A DEBT. THE COMMUNICATION IS FROM A DEBT COLLECTOR AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE.
>
> THE INFORMATION CONTAINED IN THIS EMAIL IS INFORMATION PROTECTED BY ATTORNEY-CLIENT AND/OR ATTORNEY/WORK PRODUCT PRIVILEGES. IT IS INTENDED SOLELY FOR THE USE AND VIEW OF THE ADDRESSEE AND THE PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY EMAIL. IF THE PERSON ACTUALLY RECEIVING THIS TRANSMISSION OR ANY OTHER READER OF THIS DOCUMENT OR ANY ATTACHMENT IS NOT THE NAMED RECIPIENT OR THE EMPLOYEE OR THE AGENT OF THE RECIPIENT AUTHORIZED TO READ THESE ITEMS, BE ADVISED THAT, ANY USE, DISSEMINATION, DISTRIBUTION, TRANSMISSION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.
>
> IF YOU ARE NOT THE INTENDED RECIPIENT AND YOU HAVE RECEIVED THIS EMAIL IN ERROR, PLEASE REPLY TO US OR NOTIFY US IMMEDIATELY BY TELEPHONE AT 888-574-0700 AND DESTROY OR DELETE THIS COMMUNICATION AND RELATED DOCUMENT OR ATTACMENT. THANK YOU.

Tarler, David <david_tarler@nps.gov>

Re: Miami Concern re Pot

1 message

Tarler, David <david_tarler@nps.gov> Thu, Jan 16, 2014 at 9:19 AM
To: Stephen Andrews <sandrews@bbanda.com>
Cc: Mariah Soriano <mariah_soriano@nps.gov>, Sherry Hutt <sherry_hutt@nps.gov>

Mr. Andrews,

Thank you for your message. In response to your question, Hamilton County needs to amend its inventory to include the pot, and needs to consult with tribes on the cultural affiliation of the pot.

The reburial of the pot on Hamilton County land was not a repatriation. Repatriation is the transfer of control of a cultural item under NAGPRA. As Hamilton County never transferred control of the pot to any party, the County still retains control of the pot in a Hamilton County repository (i.e. in Hamilton County land), and NAGPRA continues to apply.

If you have any questions about amending your inventory to include the pot (as an associated funerary object), please contact Mariah Soriano (Mariah_Soriano@nps.gov), who has been copied on this message.

David

David Tarler
Training, Civil Enforcement, and Regulations
National NAGPRA Program
National Park Service
telephone 202-354-2108
email david_tarler@nps.gov

On Mon, Jan 13, 2014 at 1:58 PM, Stephen Andrews <sandrews@bbanda.com> wrote:

> Attached is the Inventory we submitted to NAGPRA and page 6 (Accn. No. 07.5) is where the pot we discussed earlier today is referenced. It is talked about in the Inventory Detail (Collection History and AFO) section. It is possible the issue is that the pot is referenced and described, but not individually listed. It is described in the AFO section, but not listed separately (gray area because we are not actually repatriating it because it is already repatriated, albeit erroneously). Do we still need to amend the Inventory and re-designate the pot? Thank you,
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> Stephen K. Andrews
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>
> tx: 888-574-0700
>
> fx: 888-574-0770

Tarler, David <david_tarler@nps.gov>

RE: Miami Concern re Pot

1 message

Stephen Andrews <sandrews@bbanda.com> Thu, Jan 16, 2014 at 10:59 AM
To: "Tarler, David" <david_tarler@nps.gov>, "Allen W. Patterson" <allen.patterson@hamiltoncounty.in.gov>, "TPPUP@aol.com" <TPPUP@aol.com>, Christy Brocken <Christy.Brocken@hamiltoncounty.in.gov>
Cc: Joe F Halloran <jfh@jacobsonbuffalo.com>, Ben Barnes <ben.barnes@gmail.com>

Mr. Tarler,

Thank you. I am surprised that the fact we have consulted with the Miami\Concerned Native American Tribes and filed the inventory with their blessing, which included the pot, and this does not suffice? I have discussed the pot issue with Mr. Halloran, Atty for the Miami, and we agreed there is no need or interest on the part of his client to dig up and rebury the pot. I understand it is a matter of transfer of control to the Miami. I think this can be accomplished by a stipulation between the Park the Miami and the Eastern Shawnee and Shawnee... does that make sense or am I just being too practical? This is not an attempt to circumvent the NAGPRA statute, but to bring into conformance the facts with the law. The park recognizes the fact that the artifact is an associated funerary object.

Best, Steve Andrews

From: Tarler, David [mailto:david_tarler@nps.gov]
Sent: Thursday, January 16, 2014 9:19 AM
To: Stephen Andrews
Cc: Mariah Soriano; Sherry Hutt
Subject: Re: Miami Concern re Pot

Mr. Andrews,

Thank you for your message. In response to your question, Hamilton County needs to amend its inventory to include the pot, and needs to consult with tribes on the cultural affiliation of the pot.

The reburial of the pot on Hamilton County land was not a repatriation. Repatriation is the transfer of control of a cultural item under NAGPRA. As Hamilton County never transferred control of the pot to any party, the County still retains control of the pot in a Hamilton County repository (i.e. in Hamilton County land), and NAGPRA continues to apply.

If you have any questions about amending your inventory to include the pot (as an associated funerary object), please contact Mariah Soriano (Mariah_Soriano@nps.gov), who has been copied on this message.

Tarler, David <david_tarler@nps.gov>

Re: Miami Concern re Pot

1 message

Tarler, David <david_tarler@nps.gov> Thu, Jan 16, 2014 at 11:31 AM
To: Stephen Andrews <sandrews@bbanda.com>
Cc: "Allen W. Patterson" <allen.patterson@hamiltoncounty.in.gov>, "TPPUP@aol.com" <TPPUP@aol.com>, Christy Brocken <Christy.Brocken@hamiltoncounty.in.gov>, Joe F Halloran <jfh@jacobsonbuffalo.com>, Ben Barnes <ben.barnes@gmail.com>, Sherry Hutt <sherry_hutt@nps.gov>, Mariah Soriano <mariah_soriano@nps.gov>, Melanie O'Brien <melanie_o'brien@nps.gov>

Mr. Andrews,

You wrote in an earlier message to me that the pot was listed in an inventory, yet the attachment in that message (as reflected in the records at the National NAGPRA Program) indicates 0 AFOs (associated funerary objects). Also, Mariah Soriano, who is responsible for such matters, confirmed to me that the pot is not in the National NAGPRA Program's inventory records. If there is a discrepancy between Hamilton County's records and the National NAGPRA Program's records, I believe that Mariah should be contacted in order that the pot be listed in the inventory records of the National NAGPRA Program. Mariah can very ably assist in the process for doing so.

Regarding consultation on the pot, I am surprised that, when I discussed the matter of the pot with the Miami Tribe of Oklahoma and others on January 9, no one stated that consultation on the pot had occurred. Please provide me with the date(s) of consultation on the pot. If the parties agree that Hamilton County has consulted on the pot, then all that is left is for Hamilton County is to work with Mariah Soriano to amend its inventory, work with Melanie O'Brien to publish a notice of inventory completion and, assuming there are no competing claims, and transfer control of the pot under the terms of the agreement with the claimant(s).

David

David Tarler
Training, Civil Enforcement, and Regulations
National NAGPRA Program
National Park Service
telephone 202-354-2108
email david_tarler@nps.gov

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>
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