“Enforcing Native Rights Using the NAGPRA”
Monday, September 19, 2011 – 10am-5pm

The Native American Graves Protection and Repatriation Act (NAGPRA) has been in effect for over 20 years, and many Indian tribes and Native Hawaiian organizations (NHOs) have successfully used the act’s statutory provisions to repatriate Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to their local communities. However, some obstacles still remain.

This training will focus on how Indian tribes and NHOs can successfully use available tools to ensure NAGPRA compliance by museums and Federal agencies, including these approaches: administrative appeals; litigation; and Congressional action. The presenters all have firsthand experience in the field and will share their experiences and recommendations. The session will conclude with a participatory exercise that will provide an opportunity to apply administrative, judicial, and legislative approaches to a specific issue.

10:00 Background & Compliance History (Lead presenter: C. Timothy McKeown)
NAGPRA requires museums and Federal agencies to perform certain actions, and the Secretary of the Interior to carry out other actions. Administrative appeals, litigation, and Congressional action provide diverse approaches to ensure NAGPRA compliance. This segment will provide an overview of the various ways that tribes and NHOs can take action to ensure compliance, as well as a brief overview of NAGPRA.

11:00 Administrative Appeal Approach (Lead presenter: Seth Pilsk)
One of the primary methods for challenging an adverse NAGPRA decision is by appealing to a higher level within the museum of Federal agency. Other actions may include:

- Seeking a finding and non-binding recommendation from the national Review Committee
- Filing an allegation that a museum has failed to comply to the Department of the Interior
- Contacting the respective Office of the Inspector General to report an allegation that a Federal agency has failed to comply

This segment will explain the various administrative options available and include specific strategies and examples.

12:00 Lunch (on your own)
1:30 **Litigation Approach** (Lead presenter: Sean Pickett, J.D.)
U.S. District Courts have jurisdiction over any action brought by any “person” – including tribes, groups, and entities – alleging a violation of NAGPRA. The Courts also have jurisdiction to review regulations promulgated by the Secretary of the Interior. This segment will review the litigation options to force compliance and will include a practical overview of what is needed in order to go to court.

2:30 **Congressional Action Approach** (Lead presenter: Patrick McMullen, Ph.D.)
The U.S. Congress has retained an oversight role over the implementation of NAGPRA which can be carried out through appropriations, legislative amendments, and casework with Federal agencies on behalf of constituents. This segment will include a basic overview of the congressional process and the roles, rights, and strategies of Indian tribes and NHOs in the process.

3:30 **Panel Discussion**
All presenters

4:30 **Sample Exercise** (to be selected based on the results of the panel discussion)

5:00 Session concludes

**Presenters:**

**C. Timothy McKeown** served for 19 years with the National Park Service implementing NAGPRA, including drafting regulations and serving as the Secretary of the Interior’s representative to the Native American Graves Protection and Repatriation Review Committee. He holds a doctorate in cultural anthropology from Northwestern University. Contact Tim at smallerscope@msn.com

**Patrick McMullen,** Ph.D., served on the personal staff of Senator John McCain and on the professional staff on the Senate Committee on Indian Affairs where he was intimately involved in Congressional oversight of NAGPRA. He is the Community Development Director for the Inter Tribal Council of Arizona, Inc. He holds a doctorate in sociology from Arizona State University. Contact at Patrick at Patrick.McMullen@itcaonline.com

**Sean W. Pickett,** JD, serves as legal counsel to the Sac & Fox Nation of Oklahoma in its landmark NAGPRA litigation against the State of Missouri. He earned his juris doctorate from the University of Missouri and is a founding partner with Pickett & Grace LLC in Kansas City. Contact Sean at swp@kclawoffice.com

**Seth Pilsk** has worked directly for almost 20 years with the San Carlos Apache Elders Cultural Advisory Council and with traditional elders from each of the Western Apache tribes on a number of cultural preservation projects, including repatriation from museums and Federal agencies, and the collection of traditional information regarding the natural world. He is a botanist with the Tribe’s Forestry Department. Contact at Seth at sethpilsk@gmail.com

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