



NATIONAL ASSOCIATION OF TRIBAL HISTORIC PRESERVATION OFFICERS

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Testimony to the House Interior Appropriations Subcommittee on the President's Fiscal Year 2011 Budget Request for Interior and Related Agencies - National Park Service (NPS)

The National Association of Tribal Historic Preservation Officers (NATHPO) is pleased to submit testimony for the record to the House Appropriations Subcommittee on Interior and Related Agencies on the President's Fiscal Year 2011 Budget Request.

The National Association of Tribal Historic Preservation Officers

NATHPO is a national not-for-profit membership association of tribal governments that are committed to preserving, rejuvenating, and improving the status of tribal cultures and cultural practices by supporting Native languages, arts, dances, music, oral traditions, cultural properties, tribal museums and cultural centers, and tribal libraries. NATHPO assists tribal communities protect their cultural properties, whether they are naturally occurring in the landscape or are manmade structures. In addition to members who serve as the Tribal Historic Preservation Officer (THPO) for their respective tribe, our membership includes many other tribal government officials who support our mission and goals. NATHPO provides technical assistance, training, timely information, original research, and convenes a national meeting of tribal representatives, preservation experts, and federal agency officials.

Priority Areas for Interior and Related Agencies:

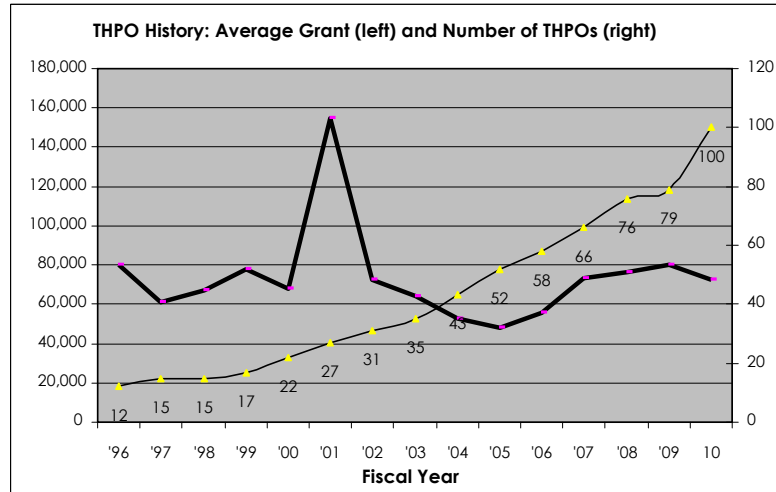
NATHPO is submitting comments in support of these priority areas (suggested dollar amount in parenthesis):

1. National Park Service, **Historic Preservation Fund, Tribal line item** (\$20 million)
2. National Park Service, **National NAGPRA Program, (1) Grants; and (2) Program** (\$2.331 million for Grants and \$1 million for Program/Alternative Use)
3. Implement Recommendations of the Makah-NATHPO report on "Federal Agency Compliance with the Native American Graves Protection and Repatriation Act," Department of the Interior, National Park Service, **National NAGPRA Program** and other Federal agencies
4. Department of the Interior-To conduct a **National Study** to examine the actual needs and challenges facing Indian country's cultural preservation

Historic Preservation Fund (HPF) – Tribal line item:

Request \$20 million for the Tribal Line that supports both the THPOs and a tribal competitive grant program of important national needs in Indian country

THPO History: Average Grant (left) and Number of THPOs (right)



As of March 15, 2010, there are 100 NPS-recognized THPOs in the lower 48 states. These Indian tribes have assumed the responsibilities of the State Historic Preservation Officers (SHPOs) for their respective tribal lands and have a land base exceeding 34 million acres spanning 28 states.

What are Tribal Historic Preservation Officers? Technically speaking, they are federally recognized tribal governments that have entered into an agreement with the Department of the Interior to assume the federal compliance role of the SHPO, as codified in 36 CFR Part 800. Thus, THPOs are actively involved with projects to improve Indian schools, roads, health clinics and housing. What are THPOs in a general sense? THPOs are the first responders when a sacred site is threatened, when an ancestral home is uncovered, and when Native ancestors are disturbed by development. They are also responsible for creating their tribe’s oral history programs and operating tribal museums and cultural centers. They perform many functions and responsibilities in Indian country and they are an active expression and exercise of tribal sovereignty. For the past 10 years, these programs have become very popular and successful with tribal governments. For the first time, they are recognized as the authentic representatives of cultures and societies that have been in existence for countless generations.

Historic Preservation Fund (HPF): THPOs have assumed the same functions as SHPOs and have a crucial role implementing the NHPA. There are 100 THPOs in FY10, compared to only 12 in FY96 when the program was first funded by the HPF. Support for the Tribal line item has increased over the past 15 years, but the addition of THPOs each year keeps the average level of support per THPO suppressed at around \$75,000, barely enough to operate a program. The President’s proposed \$8 million in FY11 will fall short in supporting current THPOs and the expected increase in the number of THPOs participating in the program. Note: In addition to THPO funding, a portion of the HPF Tribal line item goes to competitive tribal heritage grants.

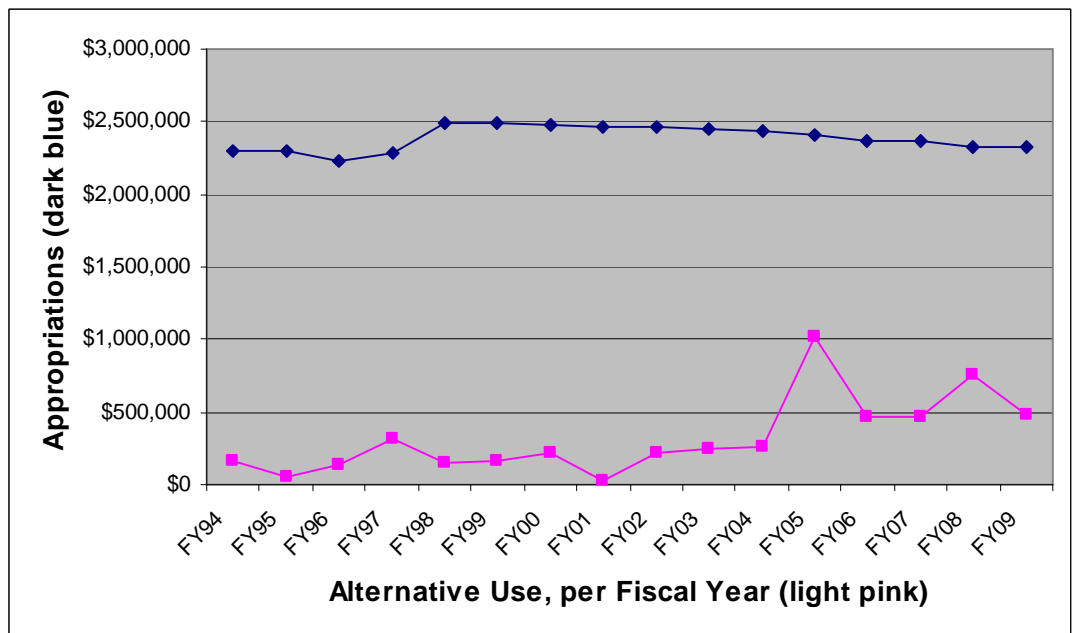
What is at Stake:

- **Without an increase in FY2011, Native American cultural properties located on millions of acres of tribal lands in the United States are at risk.** Each THPO program will be asked to perform important federal compliance work with fewer funds. It is essential that THPO programs be provided with adequate funding to meet the increasing needs and demands on their time to comply with federal, state, and tribal laws. Funding for THPO programs overall cannot remain static or decrease while the number of THPOs participating in the program continues to increase.

**National Park
Service-Interior:**

**Native
American
Graves
Protection and
Repatriation Act
(NAGPRA):**

- **Grants**
- **Program (“Alternative Use”)**



The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) provides for the disposition of Native American cultural items — human remains, funerary objects, sacred objects, and objects of cultural patrimony — removed from Federal or tribal lands, or in the possession or control of museums or federal agencies, to lineal descendants of Indian tribes or Native Hawaiian organizations based on cultural or geographic affiliation. NAGPRA also prohibits trafficking of Native American cultural items. The Secretary of the Interior has established and maintains the NAGPRA Review Committee to monitor and review the summary, inventory, and repatriation requirements of the Act.

NAGPRA Grants Program – NATHPO Recommends for FY2011:

- **\$2.331 million to be used exclusively** for NAGPRA Grants to Indian tribes, Native Hawaiian organizations, and museums. The maximum amount of funds to be awarded in grants to Indian tribes and museums must be a priority, especially as all parties work to implement the Final rule of 43 CFR 10.11 that goes into affect on May 14, 2010. One key provision of the new rule on the disposition of culturally unidentifiable is that a museum or Federal agency that is unable to prove right of possession to culturally unidentifiable human remains must offer to transfer control of the human remains to the appropriate Indian tribe/s and Native Hawaiian organization/s.
- **\$1 million**, additionally, for NAGPRA program administration, including the publication of Federal Register notices, grant administration, civil penalty investigations, and Review Committee costs.

The President's budget proposes a 25% reduction in NAGPRA Grants, although upon closer examination, no actual savings would be achieved. Rather, the overall amount of funds expected from the U.S. Congress remains level funded from FY2010 to FY2011 at \$2.331 million, but the NPS proposes to move \$581,000 – or 25% of \$2.331 million – via an "internal transfer or other non-policy/program change" to fund NPS "cultural resources/National Register programs." NATHPO understands that in these difficult fiscal times, austerity measures must be considered, but reducing grants to Indian tribes and museums severely impairs their ability to comply with NAGPRA while no actual federal savings will be realized.

3. IMPLEMENT THE RECOMMENDATIONS OF THE 2008 MAKAH-NATHPO REPORT, "FEDERAL AGENCY IMPLEMENTATION OF THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT."

In August 2008, the Makah Indian Tribe and NATHPO released the report, "Federal Agency Implementation of the Native American Graves Protection and Repatriation Act," which is the first ever study and analysis of how federal agencies are complying with the Act. Numerous newspaper stories covering the report's findings and recommendations have been published. The report's recommendations include these general recommendations:

- Knowledge of Process and Responsibilities (request and need for training at tribal and Federal levels)
- Access to Information (resource issue and cultural affiliation)
- Consultation (room for improvement)
- Available resources (fall short of what is needed)
- Standards (what format for Notice of Inventory Completion, what evidence for cultural affiliation, what constitutes tribal consultation)
- Training and Technology (challenges and solutions)

Specific recommendations in the report include:

- Statutory (amend Act for clarification)
- Regulatory (establish and Inter-Agency NAGPRA Implementation Council within Executive Branch to assure and coordinate compliance and related issues)
- Oversight and Enforcement of Statutory Requirements (provide training, publish NAGPRA contacts for Federal agency, demonstrate tribal consultation, improve the Culturally Unidentifiable Native American Inventories Database)
- General NAGPRA Program (improve data management and reporting)
- NAGPR Review Committee (improve information sharing)
- Memoranda of Agreement or Programmatic Agreements (demonstrated effective practice)
- Adequate Funding for the Implementation of NAGPRA (for all stakeholders in the process)
- Compliance Audits (to be completed by the General Accountability Office)
- Future Research (evaluate museum compliance, examine Future Applicability – Section 10.13)

4. DEPARTMENT OF THE INTERIOR: TO CONDUCT A NATIONAL STUDY TO EXAMINE THE ACTUAL NEEDS AND CHALLENGES FACING INDIAN COUNTRY'S CULTURAL PRESERVATION

Indian tribes and Native Hawaiian organizations have been engaged in cultural preservation for thousands of years, yet it has only been in the past 20 years that the federal government has committed to working with Native people in preserving, protecting, and rejuvenating their cultures and lifeways. In 1990, the National Park Service, under NPS Director James Ridenour, conducted the first-ever national study -- with funds appropriated by the U.S. Congress -- directing the NPS to "report on the funding needs for the management, research, interpretation, protection, and development of sites of historical significance on Indian lands." NATHPO seeks to work with the NPS and other federal agencies in developing and conducting another such effort that could serve as a blueprint for future work, knowledge, and understanding (to conduct a national study to examine the actual needs and challenges facing Indian country's cultural preservation).