

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

A Resolution of the Inter-Tribal Council of the Five Civilized Tribes Demanding Good-Faith Consultation with the University of Alabama Concerning 117 sets of Culturally Unidentifiable Human Remains and 29 associated Funerary Objects held by the Institution

Resolution No. 16-20



Bill John Baker
Principal Chief

WHEREAS, the Inter-Tribal Council of the Five Civilized Tribes (ITC) is an organization that unites the tribal governments of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek), and Seminole Nations, representing more than 650,000 Indian people throughout the United States; and



Bill Anoatubby
Governor

WHEREAS, the ITC strongly supports actions of its member Nations to preserve and to protect historic properties, traditional cultural properties, ancestral remains, funerary and sacred objects, and

WHEREAS, the Native American Graves Protection and Repatriation Act (NAGPRA) was enacted by the United States on November 16, 1990 (Public Law 101-601, 25 U.S.C. § 3001 *et seq.*), and has since been codified and most recently amended in 2006.



Gary Batton
Chief

WHEREAS, the ITC acknowledges that the University of Alabama currently possesses approximately 117 sets of Culturally Unidentifiable Human Remains and 29 associated funerary objects related to the aboriginal occupation of ITC member Tribes' removed from Franklin, Walker, Morgan, Cullman, and Colbert Counties in Alabama; and



James R. Floyd
Principal Chief

WHEREAS, the University of Alabama has certain obligations under NAGPRA and associated regulations, including 43 C.F.R. § 10.11 (c) (1) (ii), which requires consultation with ITC Tribes' concerning its inventory of Culturally Unidentifiable Human Remains and associated funerary objects; and



Leonard M. Harjo
Principal Chief

WHEREAS, during consultation, the University of Alabama must seek to develop a proposed disposition for culturally unidentifiable human remains and associated funerary objects that is mutually agreeable to all federally recognized Indian tribes whose aboriginal lands the human remains and associated funerary objects were removed from and must offer to transfer control of the human remains to those tribes.

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

WHEREAS, beginning with a claim letter from the Chickasaw Nation to the University of Alabama in February 2, 2015 the ITC member Tribes have formally requested to enter into consultation with the University of Alabama concerning its inventory of Culturally Unidentifiable Human Remains and associated funerary objects attributable to the ITC member Tribes' areas of aboriginal occupation, as set forth in 43 C.F.R. § 10.11 (b) (2) (5) , but the University of Alabama has refused to meet and consult with ITC member tribes stating that they believe the National Park Service NAGPRA Office does not have the authority to promulgate regulations governing the disposition of culturally unidentifiable human remains and associated funerary objects and that Congressional action is necessary to effect the disposition of such remains and objects.

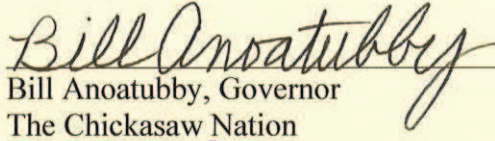
WHEREAS, in section 13 of the Act (25 U.S.C. 3011), Congress explicitly authorized the Secretary of the United States Department of the Interior to promulgate regulations implementing the Act. As an initial matter, consideration of all Native American human remains and associated funerary objects, including those that are culturally unidentifiable, is within the scope of the statute. Congress anticipated that not all items could be geographically or culturally affiliated and, in section 8 of the Act (25 U.S.C. 3006), assigned the role of recommending specific actions for developing a process for the disposition of culturally unidentifiable human remains to the Review Committee. Congress intended that the Review Committee be an advisory committee which makes recommendations to the Secretary (Senate Report 101-473 at 13). This regulation, promulgated in the exercise of Congress' delegated authority, implements many of the Review Committee's recommendations and effectuates the goals of the Act. Even if Congress may not have expressly delegated authority or responsibility to implement a particular provision of the Act or fill a particular gap in the law, it can still be apparent from an agency's generally conferred authority and other statutory directives that Congress would expect the agency to be able to speak with the force of law when the agency addresses ambiguities in the statute or fills a gap in the enacted law (United States v. Mead, 533 U.S. 218 (2001)).

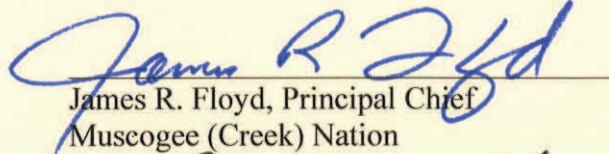
NOW THEREFORE BE IT RESOLVED, the Inter-Tribal Council of the Five Civilized Tribes hereby adopts this Resolution acknowledging that the University of Alabama must comply with the tribal consultation requirements established by federal law concerning its inventory of Culturally Unidentifiable Human Remains and associated funerary objects and hereby demands that the University of Alabama comply with such obligations.

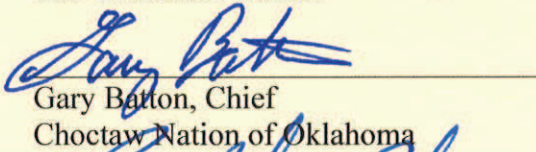
The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

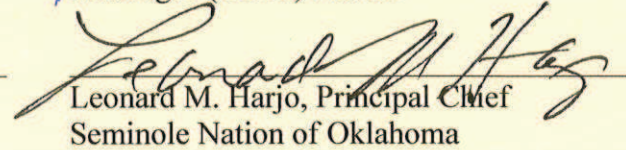
CERTIFICATION

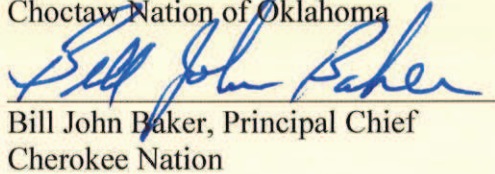
The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Norman, Oklahoma on this 8th day of July, 2016, by a vote of all for 0 against and 0 abstentions.


Bill Anoatubby, Governor
The Chickasaw Nation


James R. Floyd, Principal Chief
Muscogee (Creek) Nation


Gary Batton, Chief
Choctaw Nation of Oklahoma


Leonard M. Harjo, Principal Chief
Seminole Nation of Oklahoma


Bill John Baker, Principal Chief
Cherokee Nation