

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

Resolution Recognizing the Cultural Affiliation of the Muskogean-Speaking Tribes with Moundville Archaeological Site

Resolution No. 21-36

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 Nation, representing approximately 815,000 Indian people throughout the United States; and

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

WHEREAS, the ITC acknowledges that the University of Alabama currently possesses approximately 5,892 ancestors, also known as minimum number of individuals (MNI), calculated based on inventory submissions to National NAGPRA in 1996, and updates in 2009 and 2018 from Moundville – ITU500 as well as additional ancestors and their funerary items from associated archeological sites in Tuscaloosa and Hale County, Alabama; and

WHEREAS, the University of Alabama has certain obligations under NAGPRA and associated regulations, including 43 C.F.R. § 10.2(e)(1) which states, “cultural affiliation means there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. Cultural affiliation is established when the preponderance of the evidence—based on geographical, kinship, biological, archeological, anthropological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion—reasonably leads to such a conclusion”; and

WHEREAS, NAGPRA accommodates joint cultural affiliation claims, such as the claim presently being made by Muskogean tribes. The Department of the Interior explained this in the preamble to the Final Rule for the NAGPRA regulations in 1995 (Federal Register, Vol. 60, No. 232, Monday, December



Chuck Hoskin Jr.
Principal Chief



Bill Anoatubby
Governor



Gary Bolton
Chief



David W. Hill
Principal Chief



Lewis J. Johnson
Principal Chief

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4, 1995, Rules and Regulations, 60 FR 62134-62169). National NAGPRA has recently confirmed the appropriateness of joint Tribal claims in a letter which was provided in the appendix of the joint claim to the University of Alabama on June 11, 2021; and

WHEREAS, NAGPRA gives “preponderance of evidence” as the standard for assessing cultural affiliation. Preponderance of evidence means, more likely than not, or in other words, a 51 percent likelihood (Black’s Law Dictionary, 6th Edition); and

WHEREAS, a 107-page document was submitted with the joint claim letter to the University of Alabama, outlining cultural affiliation evidence under each criterion given by NAGPRA, and stating the Muskogean-speaking Tribes’ position that these ancestors are culturally affiliated with the Muskogean-speaking Tribes; and

WHEREAS, beginning with a claim letter from the Chickasaw Nation on March 2, 2021 followed by a joint claim from the Tribes to the University of Alabama on June 11, 2021 the ITC member Tribes have formally requested to enter into consultation with the University of Alabama for the repatriation of these human remains, funerary objects, sacred objects and items of cultural patrimony to the Muskogean-speaking Tribes; and

WHEREAS, NAGPRA 43 C.F.R. § 10.10(b)(2) states, “Repatriation must take place within ninety (90) days of receipt of a written request for repatriation that satisfies the requirements of § 10.10 (b)(1) from the culturally affiliated Indian tribe or Native Hawaiian organization, provided that the repatriation may not occur until at least thirty (30) days after publication of the notice of inventory completion in the Federal Register as described in § 10.9”;; and

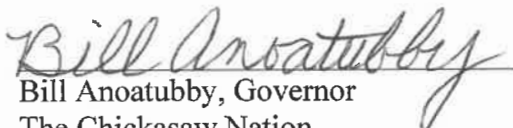
WHEREAS, NAGPRA 43 C.F.R. § 10.12(b)(v) and (vii) defines “failure to comply” if a museum “[r]efuses, absent any of the exemptions specified in § 10.10(c) of this part, to repatriate human remains, funerary objects sacred objects, or objects of cultural patrimony to a lineal descendant or culturally affiliated Indian tribe or Native Hawaiian” or “[d]oes not consult with lineal descendants, Indian tribe officials, and traditional religious leaders as required”; and

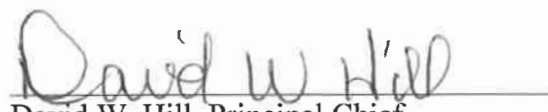
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NOW THEREFORE LET IT BE RESOLVED THAT, the Inter-Tribal Council of the Five Civilized Tribes hereby adopts this Resolution acknowledging that the Muskogean-speaking Tribes have established by preponderance of evidence under every criterion given under NAGPRA that Moundville is culturally affiliated with today's federally recognized Muskogean-speaking Tribes. Furthermore, ITC calls upon the University of Alabama to follow the requirements set forth in NAGPRA and its regulations compelling federal collections managers to expeditiously make human remains and funerary objects available to claimant Tribes when cultural affiliation has been established.


CERTIFICATION


The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Durant, Oklahoma on this 8th day of October 2021, by a vote of _____ for _____ against and _____ abstentions.


Bill Anoatubby, Governor
The Chickasaw Nation


David W. Hill, Principal Chief
Muscogee (Creek) Nation


Gary Batton, Chief
Choctaw Nation of Oklahoma


Chuck Hoskin Jr., Principal Chief
Cherokee Nation


Lewis J. Johnson, Principal Chief
Seminole Nation of Oklahoma