

DOCUMENTING CULTURALLY IMPORTANT PLACES: TABLE OF CONTENTS

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CULTURALLY IMPORTANT PLACES: GUIDELINES AND PROTOCOLS FOR A COLLABORATIVE PRE-INCIDENT PLANNING PROCESS

INTRODUCTION:

In 2019, a group of people interested in the protection of cultural resources in the event of an oil spill convened in Anchorage for two workshops to share information about existing and future protections and response strategies. The 2019 Alaska Historic Properties Specialist Workshop was attended by cultural resource professionals representing Alaska Native Tribes, organizations, and local governments, personnel from Federal and State agencies, and other cultural resource management professionals from various industries.

One outcome of the workshop was the realization that collectively and collaboratively, we need to develop a way to identify and document culturally important places before a spill event. This is a critical part of pre-incident planning for oil spill response in Alaska. Multiple approaches for documenting places are proposed in this document to work towards this goal, with recommendations for land-managing agencies, Tribes, and local governments.

PURPOSE:

Proactively identifying and documenting Culturally Important Places is an effective way to help ensure their protection during a spill response. These protocols have been developed to provide guidance for future collaborative efforts between state and federal land-managing/spill response agencies, Tribes, individual communities, and local governments, with the aim to improve pre-incident planning for spill response in Interior Alaska.

GUIDING PRINCIPLES:

- Respect for Culturally Important Places
- Collaboration & shared decision-making
- Flexibility to meet the unique needs and preferences of partner communities
- Respect for Traditional Knowledge¹
- Respect for Tribal Sovereignty and confidentiality
- Respect for emergency response personnel and protocols
- Foster open communication to improve coordination during spill response

GOALS:

- Proactively identify Culturally Important Places
- Foster dialogue, open communication, and collaboration between communities, Tribes, land-managing agencies, and spill responders
- Facilitate the early communication of relevant location information about those Culturally Important Places during a response.

¹ Advisory Council on Historic Preservation Bulletin on Traditional Knowledge and the Section 106 Process: https://www.achp.gov/sites/default/files/2021-05/TraditionalKnowledgePaper5-3-21.pdf

DEFINING CULTURALLY IMPORTANT:

Rural communities throughout Alaska uphold and value a lifestyle that balances modern and traditional lifeways, continuing subsistence practices that maintain a deep connection to landscapes rich in history and cultural significance. These protocols acknowledge this history by approaching pre-incident planning through loosely defined Culturally Important Places. This shifts the focus from legal definitions of historic properties (see below) to a wider scope of places that are culturally significant to living communities.

Culturally Important Places are areas of rich heritage highly valued by a community, held in the memory of its members. In Alaska, these may be traditional subsistence locations with long histories of seasonal occupation by individual families: places where specific hunted, fished, or gathered foods are reliably found year after year, particularly those that are predictable in an ever-changing landscape. Culturally Important Places could also be ancient settlement sites, revered burial locations, or sacred spaces with deep significance in local oral traditions.

Why not use the terms Cultural Resources, or Historic Properties?

The term 'cultural resources' is widely used and interpreted differently by different audiences. Where a federal agency might view cultural resources strictly in terms of historic properties, Tribal audiences may view cultural resources far more broadly to include natural resources, inextricably connected to subsistence and other cultural practices. Various definitions have been offered for 'cultural resources.' However, essentially cultural resources are objects, places, traditions, and beliefs that are significant to a group of people and form a collective cultural identity.

The National Historic Preservation Act provides a legal definition for 'historic property.' Therein, a historic property is defined as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

In most cases, places that are documented as Culturally Important could also be formally defended as a historic property as defined by NHPA,² should there be sufficient time and funding to investigate and evaluate them for eligibility to the National Register. However, there are many Culturally Important Places that have not ever been evaluated in this way, as well as those that do not fit well into the National Register framework. This however, should not imply that they are any less important or worthy of protection during an active spill response. During an active spill response, the NHPA provides one means for consideration of effects to properties. One intent of these Guidelines and Protocols is to identify, document, and plan to protect *all* Culturally Important Places in a given community regardless of their National Register eligibility status.

While pre-incident planning could certainly include formal determinations of eligibility for specific sites, a broader concern is that living communities have an opportunity – in a open and collaborative Pre-Incident Planning process – to prioritize and plan for protection of their own Culturally Important Places, regardless of National Register status. Similarly, because spill responders must ultimately prioritize places in the landscape to protect during an incident, the term Culturally Important Places is more location-specific than the general term 'cultural resources.'

² See Traditional Cultural Properties, Parker and King 1990.

CONTEXT:

As demonstrated by the *Exxon-Valdez* spill,⁵ oil spills have the potential to impact both natural and cultural resources. Historic Properties and other places that are considered culturally important by local communities are often more at risk from disturbance by the actions of spill responders working to contain and clean-up a spill than from the spill itself.







Figure 1: Spill response cleanup efforts may involve anchoring spill cleanup equipment like sorbent booms and skimmers on shorelines, agitation of river sediments, and physical cleaning or removal of oiled material by hand or with heavy machinery. Photos: Public Domain, courtesy of NOAA Office of Response and Restoration.⁶

During a spill response, as in any federal undertaking⁷, federal agencies are required by the National Historic Preservation Act (NHPA) to consider the effects of their actions on Historic Properties, as defined in the Act⁸. The procedures through which federal agencies consult with appropriate Tribes and communities about those effects, referred to as the Section 106 process, is designed to allow time for a methodical and meaningful consultation between interested parties. It is rarely possible to complete the full-length consultation process during the early hours of a rapidly developing spill response.

As a result, it can be difficult to establish communication and meaningful consultation, particularly about the specific locations of important places, in the early hours of an incident response when decisive action

⁵ J. Bittner, 1996. *Cultural Resources and the Exxon Valdez Oil Spill: An Overview*. Proceedings of the Exxon-Valdez Oil Spill Symposium. American Fisheries Society.

⁶ https://response.restoration.noaa.gov/resources/images

⁷ Any project a federal agency carries out, assists, funds, permits, licenses, or approves.

⁸ The National Historic Preservation Act: https://www.achp.gov/sites/default/files/2018-06/nhpa.pdf

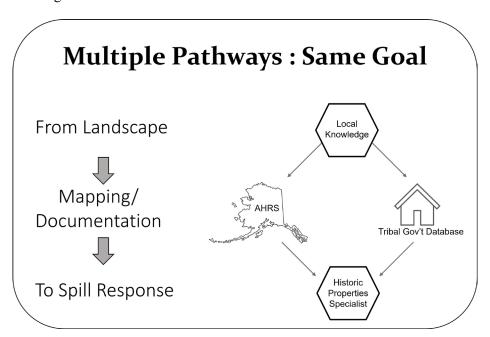
may be needed. Existing agreements and guidance between agencies at the national⁹ and state¹⁰ level provide direction to ensure that federal agencies meet their Section 106 obligations by considering the potential effects of both spills and spill response activities on historic properties. During a major spill, a Historic Properties Specialist will be activated to ensure that these places are considered during a response.

COLLABORATION: A FLEXIBLE APPROACH

Many Culturally Important Places for which communities would prioritize protection during an incident are highly sensitive in nature. In some cases, it may not be appropriate for those outside the community to have access to details about specific places, such as the nature of a site (i.e., subsistence, ceremonial, traditional use areas, etc.) or its exact locations. Fortunately, spill responders do not necessarily need detailed information about sensitive or sacred places to protect them. Even if they don't know specific attributes about the sites in an area, responders can take appropriate protection measures.

In recognition of the unique needs and concerns of individual communities and cultures across Alaska, both confidentiality and flexibility are critical guiding principles for pre-incident planning for Culturally Important Places. Regardless of the method, the goal is that places are documented, so that a Historic Properties Specialist can quickly obtain relevant location information in coordination with community members to help spill responders avoid or minimize harm to Culturally Important Places.

Pre-Incident planning greatly improves the ability for State and Federal agencies to meet their legal responsibilities during a spill response, so these agencies are encouraged to develop programs to fund collaborative partnerships with communities in their regions to document Culturally Important Places. Similarly, Tribes and local governments are encouraged to consider development of their own databases to collect information about Culturally Important Places, so that their locations can be quickly communicated during an incident.



⁹ 1997 National Programmatic Agreement (PA) on the Protection of Historic Properties: https://www.nrt.org/sites/2/files/Programmatic_Agreement_on_Protection_of.pdf
¹⁰ Alaska Implementation Guidelines for Federal On-Scene Coordinators for the 1997 PA: https://alaskarrt.org/PublicFiles/AK_Implementation_Guidelines.pdf

PRE-INCIDENT PLANNING WORKFLOW:

State and Federal land-managing agencies in Alaska serve as stewards of landscapes with a rich cultural history. As part of general pre-incident planning, state and federal agencies should work to maintain open lines of communication with Tribes and local communities who hold deep ties to the areas they manage. In addition to the guidelines and protocols for consultation with Tribes prepared by individual Agencies, the Advisory Council on Historic Preservation, ¹¹ the Alaska Regional Response Team, ¹² and other entities ¹³ provide further guidance for consulting with Tribes regarding places of cultural importance.

Though these protocols are written for any state or federal agency interested in pursuing pre-incident planning (hereafter: the Agency), the process may be initiated by other interested parties (individual communities or Tribes).

Alternatively, Tribal and local governments may wish to undertake projects that document or map Culturally Important Places without involving state or federal agencies. Tribal or local administrators might maintain a set of maps or a local database internally that may be used to quickly relay sensitive locations to spill responders. For those interested in seeking outside funding to establish a database of Culturally Important Places, National Park Service Tribal Heritage Grants can provide funding for 2-3-year projects to Federally Recognized Tribes and Alaska Native Corporations, focused on survey and inventory of historic or significant places. ¹⁴ This proactive Pre-Incident Planning – either undertaken independently or in coordination with State and Federal response agencies – will allow for greater consideration and protection of Culturally Important Places during an active spill response and reduce the need to conduct rushed consultation with key community leaders, culture-bearers, and elders during an active response.

OUTCOME:

Spill preparedness is an ongoing process, maintained through regular communication between agencies, Tribal representatives, and communities. As part of that process, the documentation of Culturally Important Places is a step that can provide long-term benefits. Following documentation, a community will have maps and information about the location and nature of Culturally Important Places gathered into one place for quick reference, should a spill ever occur.

Documented Culturally Important Places that qualify as Historic Properties may be submitted to the Office of History and Archaeology for inclusion in the Alaska Heritage Resources Survey (AHRS). The AHRS is a data repository held by the Office of History and Archaeology for the State of Alaska to protect identified cultural resources from unwarranted destruction. Locations of Culturally Important Places that are shared with the Alaska Heritage Resources Survey (AHRS) will benefit from their incorporation into a response as early as possible. Culturally Important Places documented only in community, Tribal, or local records can still be incorporated into spill response, but their inclusion relies on the swift and effective communication about their locations between community representatives and a Historic Properties Specialist or On-Scene Coordinator during a spill response.

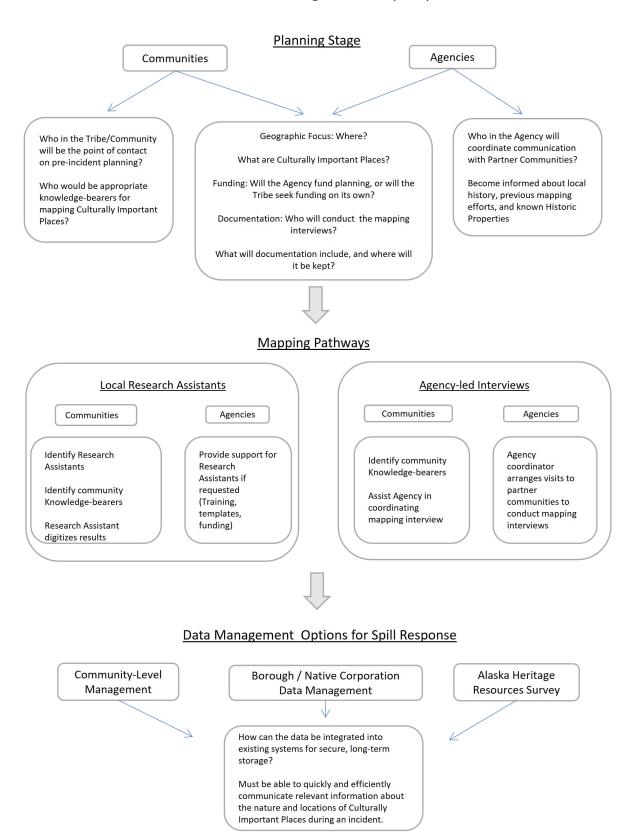
¹¹ ACHP 2021: Consultation with Indian Tribes in the Section 106 Review Process: The Handbook, https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf

 $^{^{12}}$ ARRT 2020: Guidelines for Coordination & Consultation with Federally Recognized Tribes. https://alaskarrt.org/PublicFiles/ARRT_TribalGuidance_2020.pdf

 $^{^{\}rm 13}$ Ball et al., 2015: A Guidance Document for Characterizing Tribal Cultural Landscapes.

¹⁴ National Park Service Tribal Heritage Grants: https://www.nps.gov/subjects/historicpreservationfund/tribal-heritage-grants.htm

Workflow for Documenting Culturally Important Places



GUIDANCE FOR DOCUMENTING CULTURALLY IMPORTANT PLACES

1: Establish Pre-Incident Planning Focus

- Before contacting potential collaborators, the Agency should determine who will coordinate Agency communication with potential partner communities. This may involve ensuring ongoing funding for a position dedicated to consultation with Tribes over the long term, such as a Tribal Liaison.
- The identified coordinator should complete an initial background review prior to consultation to facilitate respectful and informed discussion. The background review should include:
 - o Recent community/regional history
 - o Recorded cultural values and lifeways prior to the 19th century
 - Previously documented historic properties
 - o Place-name data, if applicable
- The Agency should prepare funding in advance for collaborating communities. When possible, funding and training for local research assistants is highly recommended (See Step 5)

2: Open Communication

- Whether instigated by Agencies seeking to reduce harm to Culturally Important Places through pre-incident planning or by individual communities interested in working with state or federal agencies, the first step is opening lines of communication.
 - Contact information listed in agency databases can quickly become out of date, making this first step in re-establishing contact between community level governments and state/federal agencies a valuable piece of pre-incident planning itself.
- Agencies must be committed a sustained, good-faith effort to maintain communication with Tribes and communities.
 - A spirit of flexibility and collaboration, without forcing a strict adherence to Agency timetables, is key for effective pre-incident planning. Agencies must respect that timelines in Alaskan communities are often driven by variable, time-limited subsistence practices, and that immediate day-to-day concerns may take priority over efforts to proactively document places for pre-incident planning.
- All communication via letters and email, including formal government to government consultation, should be supplemented with regular phone communication.
- Formal presentation of project goals (pre-incident planning) and proposed documentation methods to local or Tribal government.
 - When possible, the Agency coordinator should meet with Tribes in person, requesting permission to discuss the project at a regularly scheduled meeting time.
 - Tele- and videoconferences are now commonplace, but the Agency coordinator should ensure that physical documents describing the project are made available for Tribal and local governments to review during a teleconference presentation.
- If there is interest in pursuing a collaborative project as a partner community, points-of-contact in the local/Tribal government and participating Agencies should be established to coordinate future communications.
- As next steps are discussed, a formal grant agreement or MOU between the Agency and collaborating communities may be helpful to ensure a clear and common understanding of project goals, roles, expectations, and funding parameters.

3: Determine Geographic Focus

• The project area, or focus of mapping efforts, will be determined through direct collaboration between agencies and partner communities or amongst key community representatives. Example: land along coastlines and interior waterways where spill responders would conduct clean-up efforts or stage personnel camps in the event of a water-borne spill.

- Communities will identify the kinds of places they consider Culturally Important, which would require consideration by spill responders to avoid harming them during an incident.
- The geographic focus should include both culturally sensitive areas and "Areas of Risk," which are defined as areas judged to be at a high risk of having a spill occur (e.g., waterways/roadways with high or congested traffic, navigational hazards, are geographically constricted, or are near established fuel exchange locations).

4: Confirm Data Management Plan

- For documentation of Culturally Important Places to be useful during a future spill response, the data must be securely curated long-term, integrated into existing systems or associated with existing roles when possible. Discussion of how collected-information about Culturally Important Places will be managed should occur early in the process.
- Sensitive information about Culturally Important Places can be retained by individual communities, for reference during incident-driven consultation. Tribal sovereignty and confidentiality should be a top priority at all times.
- Communities may elect to share some or all details about Culturally Important Places with other, pre-existing and secure databases.
 - o In Alaska, one of the first places a Historic Properties Specialist will look for information about Culturally Important Places is the Alaska Heritage Resources Survey (AHRS), managed by the State of Alaska Department of Natural Resources, Office of History and Archaeology.
 - The AHRS preserves spatial data and descriptions of cultural resources across the state. Access to the AHRS is restricted under the federal Freedom of Information Act (PL 89-554), National Historic Preservation Act (PL 89-665, 54 U.S.C. 300101), and the Archaeological Resources Protection Act (PL 96-95). AHRS restrictions are also supported by Alaska state law AS 40.25.110 and Alaska State Parks Policy and Procedure No. 50200.
 - Inclusion of site data in the AHRS also ensures that places are readily available for consideration during other state or federally funded projects.
 - Other land managing agencies (e.g., National Park Service, Bureau of Land Management, US Forest Service) also retain databases of cultural resources under their stewardship.
 - Local governments and Native Corporations may also maintain databases that can house sensitive information about Culturally Important Places. Examples include the North Slope Arctic Borough Traditional Land Use Inventory (TLUI) and Northwest Arctic Borough Subsistence Mapping Project.

5a: Establish Documentation Methods: Interview

- Identify source of funding to compensate knowledge-bearers for their time and specialized expertise.
- Ideally, the Agency will work with collaborators to keep the mapping and documentation process firmly rooted in their communities, providing support (financial and technical) for local Research Assistants.
 - Research Assistants should be identified by the point-of-contact individual in each community
 - o The Agency coordinator should communicate directly with Research Assistants to provide recommendations on interview and mapping methods
 - O Research Assistants will work with Tribal/local government to identify appropriate knowledge-bearers in the community for interviews.
- If no Research Assistants can be identified:
 - The Agency coordinator will be responsible for identifying qualified personnel to conduct mapping interviews. This role may be fulfilled by the Agency coordinator.

- O Direct and regular communication regarding the mapping interviews with the community point-of-contact will determine the best approach for conducting interviews.
 - Scheduling interviews must prioritize the availability of the community knowledge-bearers and technical/cultural specialists.
 - Interviews should be conducted in-person, if possible, or at a minimum accommodate the scheduling and availability needs and preferences of the community points-of-contact.
 - Other protocols regarding visits must be followed, such as safety procedures to mitigate risks during the COVID pandemic.
 - The Agency coordinator should ensure familiarity with appropriate behavior and customs for building relationships in partner communities during their visit.

5b: Establish Documentation Methods: Site Visits

- In some cases, Agency personnel may be invited to visit communities or specific Culturally Important Places in person, supplementing interviews.
 - o If transportation to sites is arranged by members of the community, the Agency should ensure funding is available to provide reimbursement for time and fuel costs.
 - In-person visits provide the opportunity for more detailed documentation: photographs, detailed descriptions, GPS coordinates, evaluation of site stability and susceptibility to disturbance. It is critical that permission/restrictions on sharing this information be obtained from the point of contact in the community.

6: Documentation and Mapping

- Traditional Mapping using large-format printed maps and in-person interviews remains a simple and effective means for mapping place locations, though other methods using a Geographic Information System (GIS) or Google Earth can use 3D aerial imagery for a more intuitive view of the landscape.
- Mapping places through stories of past events or seasonal movements across the landscape can help generate discussion about Culturally Important Places.¹⁵
 - Consider known place names as indicators of older Culturally Important Places to generate discussion. Historic or ancient places may remain named and remembered even when landscape changes (ex. a river meanders/shallows) cause the place to fall out of active use in the present.
- The interviewer should prepare documentation templates ¹⁶ in advance for recording information about the interview, place location descriptions, and other information about the places. A sketch map of the location is helpful, if the interviewee is comfortable doing so.
- Preliminary location information can be derived from physical Topographic maps by referencing the MTRS system. Increased precision can be achieved by digitizing mapped places into a GIS and deriving coordinates from the georeferenced maps.

7: Follow Data Management Plan

Digitization of handwritten documentation and hand-drawn maps facilitates their preservation for the future, when integrated into an appropriate data management plan.

¹⁵ A helpful resource for place mapping: Tobias, 2000. Chief Kerry's Moose: A Guidebook to Land Use and Occupancy Mapping, Research Design, and Data Collection. Union of British Columbia Indian Chiefs and Ecotrust Canada.

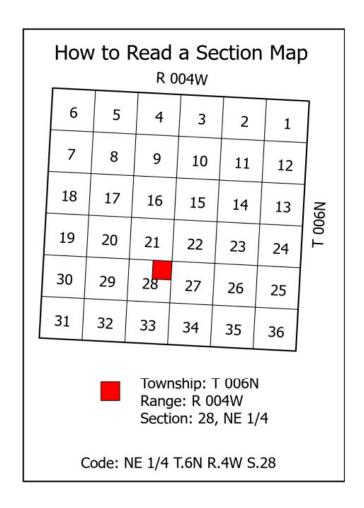
¹⁶ See example template, Appendix I.

Map ID#	Native Placename:			
	Common Name:			
Description / Cultural Significance:				
Location De	scription:			
Rough Area	:			
Sketch Map				
Interviewee			Date:	
Interviewer:	[Research Assistant's Name]			

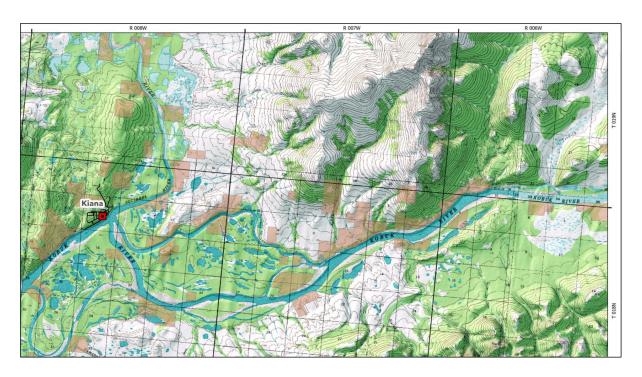
Place Location Guide

For this project, we suggest using one of two methods for identifying place location, depending on whether physical maps or Google Earth is used to map places:

- 1. The Township-Range-Section system, for physical topographic maps
- 2. Find approximate latitude and longitude coordinates using Google Earth



Township-Range-Section



Example: Kiana Township: 018 N Range: 008 W Section: 9

Quarter: N/A (Kiana lies near the Section center, so no ¼ is given)

What is the Meridian?

Township and Range values refer to Meridian lines that are used to subdivide the state.

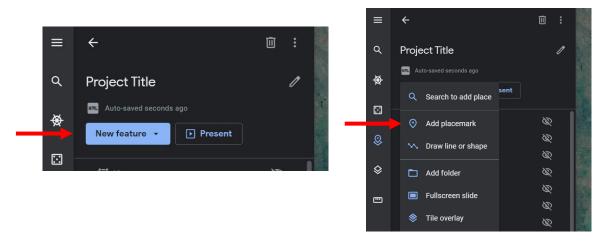
The Kobuk River Valley lies within the Kateel River Meridian.

The Koyukuk River cuts across the division between the Kateel River Meridian to the west, and the Fairbanks Meridian to the east.

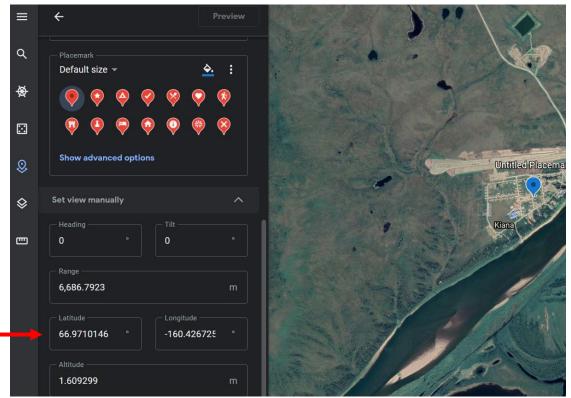
ApproximateCoordinates in Google Earth

Step 1: Create New Feature for Place

Step 2: Add Placemark

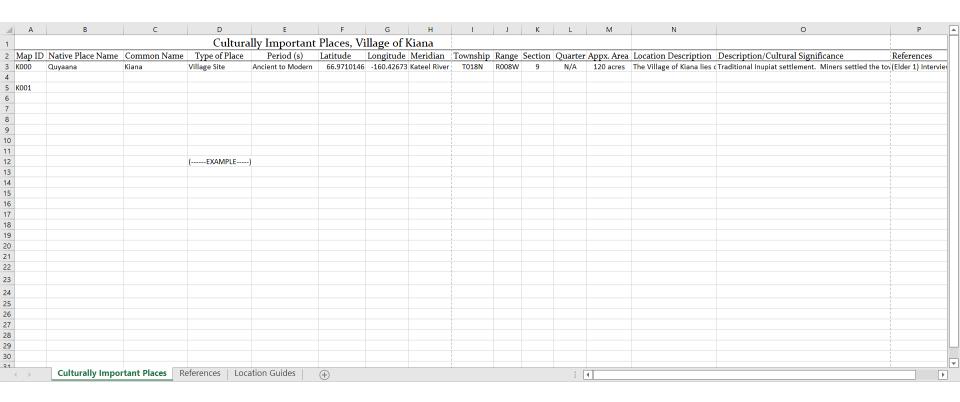


Step 3: Find Placemark's Lat. And Long.



By default, Google Earth supplies coordinates as Decimal Degrees, using the World Geodetic System (WGS) 1984 geographic coordinate system (datum).

Example for Starting a Culturally Important Places Database

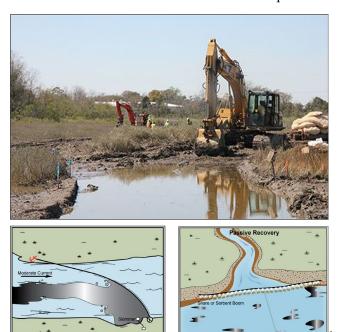


POTENTIAL IMPACTS OF SPILL RESPONSE EFFORTS ON CULTURALLY IMPORTANT PLACES

During a spill response, the response is focused on cleaning up the spill in the interests of public health and safety, the environment, and other socio-economic and cultural considerations. Depending on the tactics used, response actions can potentially cause far more (unintentional) damage to cultural resources than the spill itself. Being able to communicate sensitive locations where extra care should be taken in the early hours of a response is critical for the protection of Culturally Important Places.

Direct impacts to Culturally Important Places may be caused by hand and mechanical cleaning of beach and riverbank surfaces, and removal of heavily soiled sediments via heavy machinery. Along rivers and coastlines, booms are often deployed to capture surface oil and prevent further spreading of the spill. These booms are anchored into shorelines and riverbanks, and may impact Culturally Important places with subsurface components, like archaeological sites or burials. In areas experiencing riverbank erosion, there is further potential for spill responders to encounter exposed archaeological materials or burials.

Particularly in remote locations where staging areas for equipment and personnel are limited, areas near the spill may need to be cleared for helicopter landings, staff accommodation, and storage for equipment and hazardous materials. These activities constitute potential impacts along rivers and coastlines outside of the delineated spill area. The best locations for these staging areas may also have been ideal locations for past human activity on the landscape and may preserve remnants of centuries or millennia of human history. Knowledge of such places can be communicated during the early stages of a response to allow On-Scene-Coordinators to make informed decisions about how best to proceed.



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¹ Top: Public Domain, courtesy of NOAA Office of Response and Restoration. Below: Geographic Response Strategies for Northwest Arctic Subarea, Northern Zone. NUKA Research and Planning Group, LLC. May 2014.

THE ROLE OF THE HISTORIC PROPERTIES SPECIALIST

Due to the emergency nature of spill responses and the length of time required for standard NHPA Section 106 consultation, the Programmatic Agreement on the Protection of Historic Properties During Emergency Response Under the National Oil and Hazardous Substances Pollution Contingency Plan (hereafter, the Programmatic Agreement) and the Alaska Implementation Guidelines for the Programmatic Agreement provide a path for the consideration of cultural resources and compliance with Section 106 during a response. If a spill is not contained within predefined Categorical Exclusion areas, the Federal On-Scene Coordinator will consult with varies parties about cultural resources and may activate a Historic Properties Specialist, following the agreed upon mechanism to ensure that cultural resources are adequately considered during the spill response. The HPS will be qualified to handle culturally sensitive information and serves to gather and communicate the relevant information about cultural resources to the OSCs and advise them on response strategies and plans. For spills that are more substantial and may potentially affect cultural resources, the HPS may fit well within the Incident Command System (ICS) as part of the Environmental Unit, allowing the HPS to function alongside other resource specialists. The HPS would also coordinate directly with the FOSC as necessary, and others within the ICS structure, such as the Liaison Officer.

Per the Programmatic Agreement, the HPS should prioritize the consideration of Historic Properties that are listed, or eligible for listing, on the National Register of Historic Places (NRHP). Criteria for the evaluation of Historic Properties for their eligibility to be listed on the NRHP are laid out in regulation 36 CFR § 60.4 and elaborated upon in National Register Bulletins 15² and 36.³ However, the process for evaluating cultural resources as Historic Properties eligible for the NRHP requires investigation of each site, a luxury not often available during a spill response. This means that during a spill response, an HPS will generally proceed for response purposes as if unevaluated known, newly reported, or newly discovered cultural resources are eligible, unless clearly ineligible.

To prevent sensitive information regarding the location and nature of cultural resources from being widely or publicly distributed, the HPS ensures that only necessary information is shared. For example, rather than communicating that an area may be an ancient village site, an HPS can instruct spill responders to avoid ground-disturbing activities in an area if possible and can recommend cultural resource monitors be present during work in that area to ensure that the site is not unduly disturbed. In a spill response, the HPS is empowered to work directly with the Federal On-Scene Coordinator.

One of the first sources of information that the HPS will check when determining whether there are known cultural resources in the vicinity of a spill is the Alaska Heritage Resources Survey (AHRS). The AHRS is a restricted-access data repository held by the Office of History and Archaeology for the State of Alaska to protect identified cultural resources from unwarranted destruction. The HPS should also consult additional datasets that may indicate the presence of culturally important places, such as general published literature for the region, place-name databases, 14(h)1 sites and BIA Native Allotments. Though the OSC is responsible for formal government-to-government consultation under the NHPA, the HPS and/or Liaison Officer will also communicate with appropriate communities. Initiating and conducting effective consultation is often a time-consuming process not possible within the timeframe of

² National Park Service 1995 <u>How to Apply the National Register Criteria for Evaluation. National Register Bulletin</u> <u>15</u>. United States Department of the Interior, National Park Service, Washington, D.C.

³ National Park Service 2000 <u>Guidelines for Evaluating and Registering Archaeological Properties. National Register Bulletin 36</u>. United States Department of the Interior, National Park Service, Washington, D.C.

the response. Proactively including culturally important places in the AHRS is the most effective way to ensure that an HPS will know about and incorporate those places into the early stages of the response. For places that a community considers too sensitive to share, documenting and mapping those places and having their location information on hand can dramatically improve the effectiveness and speed of consultation with the HPS or Liaison Officer.

HELPFUL LINKS TO ADDITIONAL TRAINING AND GUIDANCE

Spill Response and Cultural Resources

Alaska Regional Response Team Website. An advisory board to the Federal On-Scene Coordinator providing support for state and federal spill response. Home to a variety of relevant references, resources, and tools. https://www.alaskarrt.org/

Alaska Department of Environmental Conservation: Area Plan References & Tools. https://dec.alaska.gov/spar/ppr/contingency-plans/response-plans/tools/

State of Alaska, Department of Natural Resources, Office of History and Archaeology Spill Response page. Hosts a variety of documents relating to spill response guidance, including legal and historic documents and references. https://dnr.alaska.gov/parks/oha/oilspill.htm

US Fish and Wildlife Service: Inland Oil Spill for DOI Response video series. Several talks specifically about managing cultural resources during a spill response. https://www.fws.gov/training/inland-oil-spill-for-doi-response-webinar-series

 The National Historic Preservation Act and the 1997 Programmatic Agreement on Protection of Cultural Resources During Oil Spill Response. https://fws.rev.vbrick.com/#/videos/0dae8d33-efdc-43a2-904e-fbd7902fecb0

Advisory Council on Historic Preservation (ACHP) Disaster Response. https://www.achp.gov/training/elearning

Alaska Inland and Coastal Cultural Resource Job Aids. Developed for spill responders to help them recognize and respond appropriately to cultural resources on the ground. https://dnr.alaska.gov/parks/oha/oilspill/aiccrjobaid.htm

NOAA Office of Response and Restoration: Resources on spills in rivers, and in the Arctic. https://response.restoration.noaa.gov/oil-and-chemical-spills/oil-spills/resources/oil-spills-rivers.html

https://response.restoration.noaa.gov/oil-and-chemical-spills/oil-spills/noaa-resources-arctic.html

The Arctic SCAT Manual: A Field Guide to the Documentation of Oiled Shorelines in Arctic Regions. https://shorelinescat.com/Documents/Manuals/Environment%20Canada%202004%20Arctic%20SCAT.p df

General Spill Response for Small Communities

Defenders of Wildlife on community preparedness (note, no discussion of cultural resources). https://www.youtube.com/watch?v=KR6vwY-8d_c

Small Community Emergency Response Plans (SCERPs). https://ready.alaska.gov/Plans/SCERP

• SCERP toolkit. https://ready.alaska.gov/Documents/Plans/SCERP/StandardSCERPToolkit.pdf

Before and After Disasters: Guidance for State and Tribal Historic Preservation Leaders on Working with FEMA, NPS, and Other Federal Agencies. A great new set of guidance documents from NPS to aid

State, Tribal, and local governments on how to work with Federal agencies before, during, and after disasters. https://www.nps.gov/articles/000/before-and-after-disasters-guidance-for-state-and-tribal-historic-preservation-leaders-on-working-with-fema-nps-and-other-federal-agencies.htm

Oil on Ice: Preparing for Spills in a Changing Arctic. NOAA 2022. https://storymaps.arcgis.com/stories/01b7b85f64104cd7869080666722cfb1.

Other Legal Documents

Alaska Implementation Guidelines for Federal On-Scene Coordinators for the Programmatic Agreement on Protection of Historic Properties During Emergency Response under the National Oil and Hazardous Substances Pollution Contingency Plan. https://alaskarrt.org/files/AK_Implementation_Guidelines.pdf

Programmatic Agreement on Protection of Historic Properties During Emergency Response Under the National Oil and Hazardous Substances Pollution Contingency Plan. https://www.achp.gov/digital-library-section-106-landing/multiple-agency-nationwide-pa-emergency-response-under-national

National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation. https://www.nps.gov/subjects/nationalregister/upload/NRB-15 web508.pdf

National Register Bulletin 36: Guidelines for Evaluating and Registering Archaeological Properties. https://www.nps.gov/subjects/nationalregister/upload/NRB36-Complete.pdf

National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties. https://www.nps.gov/subjects/nationalregister/upload/NRB38-Completeweb.pdf

Online Training relevant to Spill Response

FEMA online training on the Incident Command System. https://training.fema.gov/is/courseoverview.aspx?code=is-100.c&lang=en

HAZWOPER training to assist in spill response in the presence of hazardous materials is widely available online and in person via private companies, but also from OSHA. https://www.osha.com/courses/hazwoper.html

CULTURAL RESOURCES AND SMALL COMMUNITY EMERGENCY RESPONSE PLANS

Community preparedness plays a central role in how quickly and effectively a disaster can be managed. The Alaska Division of Homeland Security and Emergency Management (DHS&EM) has developed a toolkit and provides support for Small Community Emergency Response Plans (SCERPs), which can help your community plan for how to respond in the early stages of an incident. The DHS&EM toolkit includes a flipbook that can be provided to your community to help assign roles and responsibilities, and which includes other relevant information and contact information for state and federal response agencies. While SCERPs are primarily focused on immediate health and safety, depending upon the type of incident it may be possible or culturally imperative to act to protect culturally important places, such as cemeteries, traditional subsistence locations, and ancient or sacred places.

INTEGRATING CULTURAL RESOURCES IN SCERPS

Part of a SCERP involves assigning specific roles to individuals using the Incident Command System (ICS). The ICS structure described in the SCERP flipbook is identical to the command structure that is used for large state and federal incident response. Your community can assign an individual to serve under the Planning section as the individual responsible for ensuring that culturally important places are considered during incident response, a role that in state and federal incident response is carried out by a Historic Properties Specialist. This individual could be someone deeply knowledgeable about your community's history and surrounding landscape, such as an Elder, or someone skilled at communicating effectively to gather information from knowledgeable individuals and pass important locations on to those planning response tactics.



Section 106 Review Process

36 CFR § 800.3-7



INITIATE the process

- Determine undertaking
- Coordinate with other reviews
- Identify SHPO/THPO, Indian tribes/NHOs, and other parties
- Plan to involve the public

No undertaking with potential to affect historic properties?

NO



IDENTIFY historic properties

- Determine APE and scope of effort
- Make reasonable and good faith effort to identify
- Determine National Register eligibility
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

No historic properties present or affected?

NO



ASSESS adverse effects

- Apply Criteria of Adverse Effects
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

No historic properties adversely affected?

NO



RESOLVE adverse effects

- Develop and consider alternatives or modifications to avoid, minimize, or mitigate adverse effects
- Notify the ACHP
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

AGREEMENT or Council Comment

-23

PROCEED



Property Types

Buildings • Structures • Objects • Sites • Districts

Eligibility = Significance + Integrity

36 CFR § 60.4 Criteria for Evaluation (Significance)

A. Event

Associated with events that have made a significant contribution to the broad patterns of our history.

B. Person

Associated with the lives of significant persons in our past.

C. Design/Construction

Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

D. Information Potential

Has yielded or may be likely to yield information important in history or prehistory.

Aspects of Integrity





Assessing Adverse Effects

Measure Change from Present Condition

36 CFR § 800.5(a)(1) Criteria of Adverse Effect

An ADVERSE EFFECT is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the property's integrity.

ADVERSE EFFECTS may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative.

36 CFR § 800.5(a)(2) Examples of Adverse Effects

Destruction or Damage of all or part of historic property
Alteration not consistent with SOI Standards
Removal from its Location
Change in Use or Setting
Addition of Visual, Audible, or Atmospheric Elements out of
Character

Neglect (when not an expected characteristic) Transfer, Sale, or Lease out of Federal Control

Laws and Protocols Pertaining to the Discovery of Human Remains in Alaska

The treatment of human remains following inadvertent discovery is governed by state and federal laws, land status, postmortem interval (time since death), and biological/cultural affiliation. First and foremost, the site of discovered remains should be regarded a potential "crime scene" until a person with appropriate expertise and authority determines otherwise. The remains and a surrounding buffer area should not be disturbed until appropriate reporting and consultation have occurred.

General Guidance:

<u>Upon inadvertent discovery of human remains, first contacts should be the regional Alaska State Troopers, the Alaska State Medical Examiner's Office, local law enforcement, AST/Missing Persons Clearinghouse, the Alaska Office of History and Archaeology, associated Tribes, and the landowner.</u>

State Laws:

Several State laws are applicable to the discovery of human remains in Alaska. The State Medical Examiner (SME) has jurisdiction over all human remains in the state (with rare exceptions, such as military aircraft deaths), regardless of age.

AS 12.65.5 requires immediate notification of a peace officer of the state (police, Village Public Safety Officer, or Alaska State Trooper [AST]) and the State Medical Examiner when death has "been caused by <u>unknown</u> or criminal means, during the commission of a crime, or by suicide, accident, or poisoning."

<u>In this regard, contact the Alaska State Troopers in the applicable region first.</u> (See list of contacts on following page.) The AST has interpreted notification procedures as applicable to all remains, including ancient remains.

- AS 11.46.482(a)(3), which applies to all lands in Alaska, makes the "intentional and unauthorized destruction or removal of any human remains or the intentional disturbance of a grave" a class C felony.
- AS 41.35.200, which applies only to State lands, makes the disturbance of "historic, prehistoric and archeological resources" (including graves, per definition) a class A misdemeanor.
- AS 18.50.250, which applies to all lands in Alaska, requires permits for the disinterment, transport, and reinterment of human remains. Guidance and permits are available from Health Analytics & Vital Records (see attached list of contacts).

Federal Laws:

On Federal lands and Federal trust lands, the unauthorized destruction or removal of <u>archaeological</u> human remains (i.e., more than 100 years old) is a violation of **16 USC 470ee** (Archeological Resources Protection Act). If human remains on federal or federal trust lands are determined to be Native American, their treatment and disposition are also governed by the Native American Graves and Repatriation Act (NAGPRA) of 1990 (**PL 101-601**; **25 USC 3001-30013**; 104 Stat. 3048-3058; 43 CFR 10). NAGPRA also applies to Native American human remains from <u>any</u> lands <u>if</u> the remains are curated in any institution that receives federal funds.

CONTACT INFORMATION FOR STATE OFFICIALS INVOLVED WITH HUMAN REMAINS ISSUES IN ALASKA

*Denotes suggested contact person in list below.

1.) Alaska State Troopers, Missing Persons Clearinghouse:

Phone: (907) 269-5038 Fax: (907) 337-2059

Lt. Ben Endres

Phone: (907) 269-5682

E-mail: Benjamin.endres@alaska.gov

*Malia Miller

Phone: (907) 269-5038

E-mail: malia.miller@alaska.gov

*After contact by phone, send e-mail with relevant information and photos to Lt. Endres and

Malia Miller.

2.) Alaska State Medical Examiner's Office:

* Reporting Hotline (Death Hotline) to speak with on-duty investigator.

Phone: (907) 334-2200 (24 hours)

Fax: (907) 334-2216

Anne Waisanen, Operations Administration

Phone: (907) 334-2200

e-mail: anne.waisanen@alaska.edu Dr. Gary Zientek, Chief Medical Examiner

Phone: (907) 334-2200

e-mail: gary.zientek@alaska.gov

3.) Alaska Office of History and Archaeology (State Historic Preservation Office):

Office Phone: (907) 269-8700 *Ask for State Archaeologist Fax: (907) 269-8908

Email: richard.vanderhoek@alaska.gov or oha.permits@alaska.gov

4.) Health Analytics & Vital Records

For burial transit permits and disinterment/transit/reinterment questions:

* Registration Help Line

Phone: (907) 465-5423 Fax: (907) 465-3423

Form Date: 7/02/2024



Native American Graves Protection and Repatriation Act (NAGPRA)

A Quick Guide for Preserving Native American Cultural Resources

What is NAGPRA?

The Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013, 43 CFR Part 10 was passed on November 16, 1990, to resolve the disposition of Native American cultural items and human remains under the control of Federal agencies and institutions that receive Federal funding ("museums"), as well as the ownership or control of cultural items and human remains discovered on Federal or tribal lands after November 16, 1990. The statute and regulations outline the rights and responsibilities of lineal descendants, Indian tribes (to include Alaska Native villages), Native Hawaiian organizations, Federal agencies, and museums under the Act, and provide procedures for complying with NAGPRA. Depending on the category of cultural item in question and its cultural affiliation, NAGPRA provides lineal descendants (regardless of whether or not they are Native American), Indian tribes, and Native Hawaiian organizations (NHOs) a process for transfer to them of cultural items.

What is meant by the terms Native American, tribal land, and aboriginal land?

As defined in NAGPRA, "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States. "Tribal land" means all lands within the exterior boundaries of any Indian reservation, all dependent Indian communities, or any lands administered for the benefit of Native Hawaiians. "Aboriginal land" means Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of an Indian tribe.

Who must comply with NAGPRA?

Those entities having control of NAGPRA cultural items:

Federal agencies (excluding the Smithsonian Institution, which operates under a parallel law) **Institutions that receive Federal funds** (including, but not limited to, museums, colleges and universities, state or local agencies and their subdivisions)

What are cultural items?

As defined in NAGPRA [25 USC 3001 (3)], cultural items are:

Human remains: physical remains of a Native American

Funerary objects: placed near individual human remains as part of a death rite or ceremony **Sacred objects**: needed for the modern-day practice of traditional Native American religions

Cultural patrimony: group-owned objects having ongoing importance to the group

What is cultural affiliation?

Cultural affiliation, as defined in NAGPRA [25 USC 3001 (2)], is a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present-day Indian tribe or NHO and an identifiable earlier group.

When is cultural affiliation determined to exist?

When, after following the requirements of NAGPRA, including consultation with Indian tribes and NHOs, there is a reasonable belief that the totality of information shared permits a relationship of shared group identity to be traced between a present-day Indian tribe or NHO and an earlier group, based on biological, archeological or anthropological information, geographical location, kinship ties, linguistic connection, folkloric references, oral traditions, historical data, other relevant information or expert opinion.



When are human remains determined to be culturally unidentifiable (CUI)?

When, after following the requirements of the NAGPRA, including consultation with Indian tribes and NHOs, the totality of information shared does not reasonably permit a relationship of shared group identity to be traced.

There is a mandatory process in NAGPRA for resolution of the disposition of human remains of a culturally unidentifiable Native American individual with either a "tribal land" provenience, an "aboriginal land" provenience. In addition, NAGPRA provides a discretionary process for the disposition of CUI without a "tribal land" or "aboriginal land" provenience.

Who owns/controls NAGPRA cultural items discovered on tribal or Federal lands after November 16, 1990?

On tribal land, human remains and associated funerary objects belong to the lineal descendant(s) of the deceased Native American. If no lineal descendant can be ascertained, the human remains and associated funerary objects belong to the "tribal land" Indian tribe or NHO. Unassociated funerary objects, sacred objects, and objects of cultural patrimony belong to the "tribal land" Indian tribe or NHO.

On Federal land, human remains and associated funerary objects belong to the lineal descendant(s) of the deceased Native American. If no lineal descendant can be ascertained, control is with the closest culturally affiliated Indian tribe or NHO that states a claim. In the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony, control is with the closest culturally affiliated Indian tribe or NHO that states a claim. If cultural affiliation cannot be determined, control of a NAGPRA cultural item is with the Indian tribe that is recognized as the "aboriginal land" tribe and states a claim, unless the claim is preempted by the claim of an Indian tribe or whose cultural relationship to the item is stronger than that of the "aboriginal land" tribe.

What is the process for resolution of ownership of NAGPRA cultural items discovered on tribal or Federal lands after November 16, 1990?

Intentional Excavation= Discovery with a Plan: Inadvertent Discovery= Discovery without a Plan:

- Prior to any discovery, and through consultation, develop a Plan of Action or an agreement for disposition upon discovery and removal.
- **1.** Discovery of cultural items without a plan for disposition.
- **2.** If cultural items are discovered, immediately put the plan or agreement into action.
- **2.** Stop work for 30 days, protect site, consult, and develop a plan.
- 3. Publish any Notice of Intended Disposition (NID) in newspaper twice, as required.
- 4. Transfer control of cultural items after 30 days.
- 5. Send copy of NID to National NAGPRA.



What are NAGPRA Collections?

Cultural items that are in the possession of or under the control of a museum or Federal agency. These organizations are required to compile a summary or inventory of the cultural items in their collections and consult with Indian tribes and NHOs to identify the geographical and cultural affiliation of the items.

What are the NAGPRA Collections summary and inventory processes?

Summaries for unassociated funerary objects, sacred objects & objects of cultural patrimony:

- Institution or Federal agency produces a summary description of objects in its collection that fit, or might fit, one of the categories of cultural item (NAGPRA Summary) and distributes it to all potential culturally affiliated Indian tribes or NHOs.
- **2. Institution or Federal agency** consults with Indian tribes or NHOs, upon request, to identify NAGPRA cultural items.
- **3. Indian Tribe or NHO** submits a written request, and if the request satisfies the required criteria, the **institution or Federal agency** publishes a Notice of Intent to Repatriate in the Federal Register.

Inventories for human remains and associated funerary objects:

- 1. Institution or Federal agency consults with Indian tribes or NHOs to determine if human remains and associated funerary objects in its collection are culturally affiliated or culturally unidentifiable.
- 2. Based on the totality of the information in its possession, institution or Federal agency creates an item-by-item Culturally Affiliated Inventory or Culturally Unidentifiable Inventory.
- 3. Within 6 months of completing either type of inventory, institution or Federal agency sends copies to appropriate Indian tribe(s) or NHO(s) and publishes a Notice of Inventory Completion in the Federal Register. Notices are not claim dependent.
- **4. Institution or Federal agency** waits 30 days following publication of a Federal Register notice before transferring control of cultural items, human remains, or associated funerary objects, in case there are competing claims that satisfy the required criteria. During the 30 days, there can be consultation on transfer of possession.
- 5. Institution or Federal agency must transfer *control* of item(s) to Indian tribe(s) or NHO(s) within 90 days of receipt of a claim that satisfies the required criteria if no exceptions apply (such as to resolve competing claims), and transfers *possession* of item(s) based on mutual agreement of all parties.



What funding is available to help with the NAGPRA process?

Section 10 of NAGPRA authorizes competitively selected grants to museums, Indian tribes, and Native Hawaiian organizations to assist in consultation, documentation, and repatriation of Native American human remains and cultural items. The National Park Service's National NAGPRA Program administers the grants. There are two types of NAGPRA grants available: Consultation/ Documentation Grants and Repatriation Grants (see *Quick Guide – NPS Grants*).

What does the National NAGPRA Program do?

Supports the Review Committee established to monitor NAGPRA compliance, makes findings of fact, facilitates the resolution of disputes, consults on regulations, and reports to Congress **Drafts** regulations to implement NAGPRA, in consultation with the Review Committee **Publishes** notices in the Federal Register

Maintains databases for NAGPRA inventories and summaries, and to identify consulting parties
Administers grants to Indian tribes, Native Hawaiian organizations, and museums
Provides training and outreach programs to tribes, institutions, Federal agencies, and the public
Staffs the Secretary of the Interior on civil penalties imposed on institutions that fail to comply with
NAGPRA

More information

For more information about the statute and regulations, visit the National NAGPRA Program on the National Park Service website at: http://www.nps.gov/nagpra/

For more information about the NAGPRA Grants go to: www.nps.gov/history/nagpra/grants

Report Oil and Hazardous Substance Spills

TOLL-FREE	1-800-478-9300
INTERNATIONAL	1-907-269-0667
ONLINE	ReportSpills.alaska.gov



It's Required by Alaska Law!

(AS 46.03.755, AS 46.03.450, 18 AAC 75.300, 18 AAC 75.325)

Oil and Petroleum Product Reporting

Spills to Water

Any amount spilled to water must be reported immediately.

Spills to Land

- Spills in excess of 55 gallons must be reported immediately.
- Spills in excess of 10 gallons but less than 55 gallons must be reported within 48 hours.
- Facilities shall maintain a spill log and report a record of oil discharges from 1 to 10 gallons monthly.

Spills to Impermeable Secondary Containment

Spills in excess of 55 gallons must be reported within 48 hours.

Hazardous Substance Reporting

Any hazardous substance spill, other than oil, must be reported immediately.

Underground Storage Tank (UST)* Reporting

You must report a suspected below ground release from a UST system, in any operator of a UST shall investigate the amount, within 24 hours. (18 AAC 78.212)

If a release is suspected the owner or UST site and shall report to the UST Unit within the period specified. (18 AAC 78.200)



Alaska Department of Environmental Conservation Division of Spill Prevention and Response https://spills.alaska.gov

Contact us: (907) 465-5250

* Regulated UST as defined in AS 46.03.450(8)

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