

## NAGPRA (1990): Tribal Legacy Testimonials

### 1) Lindi Trolan (Grand Ronde)

"Reservation Part 4 of 7: NAGPRA"

TOMV 2006

<https://www.lc-triballegacy.org/video.php?vid=704&query=NAGPRA>

"So, then we go back to NAGPRA, which is the Graves Protection and Repatriation Act. And this law applies to federal institutions and groups who receive federal funds. And, as the name implies, there are two parts to it. And one is the protection of burial sites on federal and tribal land, which requires consultation with tribes and has penalties for the violation of this law. If there's...if it's intentionally...if a burial site is intentionally disturbed, the penalty ...it's a felony if it's prosecuted. If there's inadvertent discoveries there's the...the recourse is to stop all the project action and begin consultation with the affected tribe or tribes. So that's the protection aspect. The repatriation component is meant to recognize the ownership of by contemporary tribes today of their items and ancestors that are in possession of these museums, and to provide a legal framework for getting them back out of the museum. And, so up here you'll see the process.

And I guess first I need to tell you there...under the law there are four different categories of items because we can't go to museums and ask for everything back; it's very regulated according to this law what we are allowed to get back. And those four items are human remains, associated and unassociated funerary objects - associated means those objects that were re-interred with the remains and stay that way; unassociated means for...with the example of the Army and the Smithsonian, that they have...the things that were buried together - the people and the objects - were then separated for whatever reasons and so now they're no longer united. And then there are sacred objects, and those are objects that are ceremonial in nature and needed by traditional leaders to continue on a practice today. And items of cultural patrimony, which have ongoing historical, traditional, or cultural importance.

So up here you'll see the process that takes place to reclaim our ancestors and these items from museums. It began...the law mandates that all museums that receive federal funding have to do inventories for those four categories of repatriable items under NAGPRA. The second step is that the tribe requests the inventory and we have to write a formal request and establish a preponderance of evidence to claim and show the cultural affiliation based on geographical, historical and documented information. Then we submit our claims to the museum, who then review's it, compares it to their own information. And if they deem the claim as accessible and comparative to what they have, then we then go into negotiations. There's a thirty-day period for requests and it's published in the Federal Register and then we begin the process of bringing them home.

## **2) Valorie Sheker (Callapooya)**

"Reservation Sacred Places"

TOMV 2006

<https://www.lc-triballegacy.org/video.php?vid=698&query=place>

"To take care of our cemetery, like any nationality, I know that people have heard that Native Americans are so aggressive when it comes to their burial sites, or their cemeteries and what not, but like any other nationality, we are no different. Everybody does not want the graves of their ancestors disturbed. We're only here and we are only who we are because of our ancestors, no matter what nationality you are. And so that's when the Affiliated Tribes of Northwest Indians became involved.

The Affiliated Tribes of Northwest Indians is all the Indian tribes that exist in Oregon, Washington, Montana and Idaho. We drafted a resolution to let the Army know that we know of this inadvertent discovery. The importance of preserving a spot like this, or a place like this, I can't possibly verbalize how important it is. Not only historically, not only archaeology or culturally, I...you know, there's just no words to describe it.

What we can do, we cannot ask the Army to take down the barracks. We can't ask them to take down the streets, or dig up the asphalt. We can ask them to no longer do ground disturbing activity. And not only because of the remains that were found in the basement of the east barracks, but they were also doing the new plumbing - digging out outside the building to lay new pipe where remains were also dug up. My comment to the army was is that the Army came there in 1855. The reason they came there is because it was currently and had been for I would imagine hundreds of years been a gathering place for Native American tribes - Oregon, Washington, Idaho, Montana - and Indian tribes all over probably converged on this spot. It had been an existing meeting place for longer than what the Army had been there. So the Army couldn't possibly know where graves were and were not. They only know since the Catholics, when they came in the 1830s, that this was the Catholic designated cemetery. But where did they bury their dead prior to the white man's arrival? Nobody knows.

So, we asked the Army to no longer do the ground disturbing activity, and they agreed. If they did have to for some reason that it was very important that, you know, if they had a broken water main or something, before they did so they would contact each tribe. The 36 tribes are represented in this cemetery. 36 tribes. They would contact each and every one of us. We would send out one or two site monitors to be there while they did this work. If any cultural items, if any remains were found, then they...then everything would stop at that time, we would GPS it and do all the documentation of that artifact. And then it would be taken in a special way by the tribes. It wouldn't necessarily at that time be determined what tribe it would be from because that would be pretty difficult to do.

The more I worked on this project, the more sensitive I became to the issue. The Native Americans as a whole, they did not mark cemetery boundaries. Um...you could find remains of one person from maybe a hunting party that had lost a member, or you could find remains of maybe a fishing village where they buried their dead, but historically we did not. And so the importance of this cemetery and the document that you are looking at that has the names of the graves of the people that are buried there, it is just so important to us because we do not know...we know where our tribes existed. My tribe came from the St. Mary's River Band of [Callapooya] near Eugene. Now we know that, but I couldn't tell you where my ancestors were buried there. And so it's very important because of the 36 tribes that are descended from these people, we know. We have a place to go, we have a place to honor them."

### **3) Rex Buck Jr. (Wanapum)**

"Using NAGPRA"

TOMV 2006

<https://www.lc-triballegacy.org/video.php?vid=869&era=1&subcat=>

"So, as that begins to take its course, we begin to stay involved and we begin to get involved. Our next big involvement was with the Kennewick Man issue. To try to get those remains back through NAGPRA. There was large discussion on if really NAGPRA was the avenue to pursue the collections. There was some that didn't think that NAGPRA was the right process to use, but it was the one that ended up being the process that would be used. And the tribes got together and pushed forward with that. And as that began to take its course, there were other things then that came out of that, because cultural affiliation and those kind of things begin to look at the law more closely to try to determine what was the intent of NAGPRA and how was it going to be implemented? And you know what does cultural affiliation mean? And so they took that to the Portland courts and that began to push a different direction into NAGPRA and what the tribal people felt [about] what the law says and what the scientists might interpret it as.

And because of the way the laws are, it's two different things I guess, the way I understand it, and the way the majority of the elders understand it, is that if you don't have a degree in archaeology or whatever, and you don't have things recorded, and in a court of law it doesn't go too far. And what they did...what the law doesn't encounter is that the tribes, the elders, the people who have these special jobs that they do when they take care of human remains and place them into the ground, all of that is oral knowledge. And they know how to take care of each other when they pass on, and they have traditional ways that they do things and what they put and how they put people away, not only recently but in the way past. But all that information, because it's only oral, is not accepted into the court of law. That they say...it's where does it "say that" and we say [it] because for generation upon generation our oral knowledge and our oral history is passed that way. Certain

people have certain things that they take care of and what we're telling you is the truth. Well, because it's not written down somewhere they won't accept it and they have a hard time with it. So I think that's some of the things that are not understood today by the courts, and the way the courts are set up and what was the intent of NAGPRA? I believe the intent of NAGPRA was for the tribes to...and people who were the next of kin, you know, that they could get their people back and they could bring them home. And today it's a little bit different."