

Seattle, WA 98195-3010, telephone (206) 685-2282, before December 4, 2006. Repatriation of the human remains and associated funerary objects to the Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: September 28, 2006

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. E6-18479 Filed 11-1-06; 8:45 am]

**BILLING CODE 4312-50-S**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Intent To Repatriate Cultural Items: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA, that meet the definition of "unassociated funerary objects" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 1,549 cultural items are 1 copper ore, 5 abalone shell gorgets, 5 shell pendants, 2 shell fragments, 1 steatite pipe, 2 points, 1,530 beads, 1 basketry fragment with leather, 1 iron spear, and 1 iron axehead.

Between 1950 and 1960, Dr. Harold Bergen, an avocational archeologist, collected funerary objects from the Bergen site #20, along the foot of a rocky bluff outside of Selah, Yakima County,

WA. Ten burials were found in a flexed position with stones placed on the human remains. The human remains were in a fragile condition and were not collected with the exception of two crania. The crania were not accessioned by the Burke Museum and the whereabouts of the two individuals are unknown. In 1989, the unassociated funerary objects were donated to the Burke Museum (Burke Accession #1989-57). The 1,546 unassociated funerary objects are 1 copper ore, 5 abalone shell gorgets, 5 shell pendants, 2 shell fragments, 1 steatite pipe, 2 points, and 1,530 beads.

Ethnographic and archeological evidence indicates that rockslide burials in talus slopes were customary burial practices of the Yakama. It was also customary for the Yakama to bury individuals with many of their personal belongings. The burial practices and funerary objects are consistent with practices of the Confederated Tribes and Bands of the Yakama Nation, Washington. Selah is within the aboriginal territory of the Confederated Tribes and Bands of the Yakama Nation, Washington and within the land claims boundaries of Indian Claims Commission decisions (12 ICC 301 (1963); 7 ICC 794 (1959)).

In 1995, one cultural item was accessioned by the museum when it was found in collections (Burke Accession #1995-64). The circumstances surrounding how the cultural item came into Burke Museum's collection is unknown. According to museum documentation, the cultural item was collected from a burial immediately south of Priest Rapids Dam, Yakima County, WA. The one unassociated funerary object is a fragment of leather attached to a basketry fragment. Museum documentation includes a note indicating it was from the Earnest Combes Collection, that copper was also found with the burial, and the human remains were those of a child. The human remains and copper are not located at the Burke Museum and no further information could be located.

Ethnographic and archeological data suggests that deceased Yakama people were commonly wrapped in buckskin, blankets, and tule mats in preparation for burial. The leather and basketry fragments are consistent with this information. Priest Rapids Dam is within the aboriginal territory of the Confederated Tribes and Bands of the Yakama Nation, Washington.

In 1896, two cultural items were acquired through trade with the Hudson Bay Company by Dr. R.E Stewart. According to museum documentation, the cultural items were found on a grave

and are from Satus Creek, WA. In 1905, the cultural items were donated to the Burke Museum (Burke Accession #40). The two unassociated funerary objects are one iron spear and one iron axe head.

The two cultural items are consistent with other funerary objects known to be associated with Yakama burials. The Se'tas-lemma and Lower Yakama bands were the groups ethnographically noted to have occupied the Satus Creek area. Satus Creek is within the aboriginal territory of the Confederated Tribes and Bands of the Yakama Nation, Washington. Satus Creek falls within the lands ceded in the Yakama Treaty of 1855.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the 1,549 unassociated funerary objects and the Confederated Tribes and Bands of the Yakama Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195-3010, telephone (206) 685-2282, before December 4, 2006. Repatriation of the unassociated funerary objects to the Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington that this notice has been published.

Dated: September 28, 2006

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. E6-18482 Filed 11-1-06; 8:45 am]

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## DEPARTMENT OF JUSTICE

### **Justice Management Division; No FEAR Act Notice**

**AGENCY:** Justice Management Division, Department of Justice.

**ACTION:** Notice.

**SUMMARY:** This notice fulfills the Department of Justice's "No FEAR Act Notice" **Federal Register** publication obligations, as required by the Act and by the Office of Personnel Management implementing regulations at 5 CFR 724.202.

**DATES:** This notice is effective November 2, 2006.

**FOR FURTHER INFORMATION CONTACT:** Marcus Williams, Acting Director, Equal Employment Opportunity Staff, Department of Justice, Suite 10001, 1425 New York Avenue, NW., Washington, DC 20530. Telephone: (202) 616-4800.

**SUPPLEMENTARY INFORMATION:** On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002" which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

The Act also requires Federal agencies, including the Department of Justice ("DOJ"), to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

**Antidiscrimination Laws**

The Department of Justice cannot discriminate against an employee or applicant for Federal employment with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16. If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your

agency. *See, e.g.,* 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor, as noted above, or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the DOJ's administrative or negotiated grievance procedures, if such procedures apply and are available.

**Whistleblower Protection Laws**

A DOJ employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site—<http://www.osc.gov>.

**Retaliation for Engaging in Protected Activity**

The DOJ cannot retaliate against an employee or applicant for employment because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections

or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

**Disciplinary Actions**

Under the existing laws, the DOJ retains the right, where appropriate, to discipline an employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), the DOJ must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits the DOJ to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

**Additional Information**

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the Equal Employment Opportunity Staff at the Department of Justice. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—<http://www.eeoc.gov> and the OSC Web site—<http://www.osc.gov>.

**Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: October 16, 2006.

**Lee J. Lofthus,**

*Acting Assistant Attorney General for Administration.*

[FR Doc. 06-9022 Filed 11-1-06; 8:45 am]

BILLING CODE 4410-NW-M

**DEPARTMENT OF JUSTICE****Bureau of Prisons****Annual Determination of Average Cost of Incarceration**

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Notice.

**SUMMARY:** The fee to cover the average cost of incarceration for Federal inmates in Fiscal Year 2005 was \$20,842.