

with plant fiber. The first portion of one dance headdress is a wooden figure carved to represent a salmon that is painted graphite and black. The second and third partial headdresses are wooden figures carved to represent bears' heads. The wooden headdress mask is carved to represent a Tlingit spirit (a dead man) and is painted black and red. The first wooden carving depicts a land otter that is sitting up. The second carving depicts a spirit with a frog in its stomach, and the third wooden carving depicts a spirit with a land otter coming out of its mouth. The partial rattle consists of a wooden handle attached to the rattle's body that is carved to represent an oyster-catcher. The three strings of shells consist of scallop shells attached with hide. The first wooden guard or spirit is carved to represent an eagle, and the second is carved to represent a bear. The third wooden guard or spirit is carved to represent a figure with a fighting headdress, and the fourth is carved to represent many spirits. The doctor's urine box is made of wood, stands on two legs, and measures approximately 32 cm x 22 cm x 18 cm.

The second shaman's kit consists of one wooden rattle, four wooden masks, two headdress masks, one headdress, one ceremonial hat, two ornamental tops of dance headdresses, and three sections of walrus ivory.

The wooden rattle is carved to represent the sun and is ornamentally painted to depict a frog. The first wooden mask is carved to represent a land otter and is ornamentally painted red, black, and mineral blue, with a devil fish painted on each cheek. The second wooden mask is carved to represent a man's face; the center of the forehead is raised and is carved to represent a killer whale's dorsal fin. The mask is ornamentally painted in red, black, and native mineral blue. Tail feathers of a red wing flicker are painted on each cheek, while the forehead is painted to depict a raven. The third wooden mask is carved to represent the spirit of an old man named "Shou-Kee-yake" and is painted red, black, and native mineral blue. The fourth wooden mask is carved to represent an old woman with a labret in the lower lip. The mask is also ornamentally painted red, black, and native mineral blue; and on the face are painted the tail feathers of the red wing flicker. The two headdress masks are made of wood. The first headdress mask, carved to represent an eagle, is painted red, black, and native mineral blue, and is ornamented with copper eyebrows. The second headdress mask is carved to represent a ground hog and is

ornamented with copper eyebrows and operculum teeth. Above the forehead, three carved spirit faces are painted red, black, and native mineral blue. The headdress is made of wood and hide and is painted red, black, and native mineral blue. It is carved to represent a kingfisher above and a frog below, with both figures ornamented with copper eyebrows and operculum teeth. The ceremonial hat is made of woven spruce root and is painted to depict a spirit of a man with a devil fish on either hand. The first ornamental portion of the dance headdress consists of four woven spruce root disks, and the second portion consists of five woven spruce root disks. The walrus ivory is in three pieces.

The cultural affiliation of the 31 cultural items is Hutsnuwu ("Hootz-ar-tar qwan") Tlingit as indicated through museum records and consultation with representatives of the Central Council of the Tlingit & Haida Indian Tribes. Museum records identify the items as having come from the grave houses of two doctors of the "Hootz-ar-tar qwan." The Central Council of the Tlingit & Haida Indian Tribes has requested the shamans' kits on behalf of the clans of Angoon who comprise the Hutsnuwu Tlingit.

Officials of the American Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (3) (B), the 31 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 Native American individuals. Officials of the American Museum of Natural History 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 unassociated funerary objects and the Central Council of the Tlingit & Haida Indian Tribes.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Nell Murphy, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769-5837, before May 26, 2006. Repatriation of the unassociated funerary objects to the Central Council of the Tlingit & Haida Indian Tribes may proceed after that date if no additional claimants come forward.

The American Museum of Natural History is responsible for notifying the

Angoon Community Association, Central Council of the Tlingit & Haida Indian Tribes, Kootznoowoo Incorporated, and Sealaska Heritage Institute that this notice has been published.

Dated: March 23, 2006.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

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**BILLING CODE 4312-50-S**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Notice of Intent to Repatriate Cultural Items: South Dakota State Historical Society, Archaeological Research Center, Rapid City, SD

**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 South Dakota State Historical Society, Archaeological Research Center, Rapid City, SD, that meet the definition of "unassociated funerary object" 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 14 cultural items are 2 unmodified freshwater bivalve shells, 1 lot of charred wood fragments, 1 lot of bone beads, 1 lot of flint flakes, 1 shell bead, and 8 shell pendants removed from Gregory and Roberts Counties, SD.

A detailed assessment of the cultural items was made by the Archaeological Research Center's professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Prairie Island Indian

Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community, Minnesota; and Yankton Sioux Tribe of South Dakota.

In 1923, 11 cultural objects were removed from Daugherty Mounds, 39RO10, in Roberts County, SD, by W.H. Over Museum personnel. The 11 cultural items are 1 lot of bone beads, 1 lot of flint flakes, 1 shell bead, and 8 shell pendants, which were found in association with burials. The cultural items were curated at W.H. Over Museum and then transferred to the Archaeological Research Center in 1974. The human remains with which the 11 cultural items were originally associated were reburied in the mound at the close of the excavation in 1923.

The Daugherty Mounds date to the Woodland period (A.D. 500 - A.D. 1100).

In 1941, three cultural items were removed from the Scalp Creek site, 39GR1, in Gregory County, SD, by E.E. Meleen from the W.H. Over Museum, Vermillion, SD, as part of a Works Projects Administration project. The three cultural items are two unmodified freshwater bivalve shells and one lot of charred wood fragments, which were found in association with burials. The cultural items were curated at W.H. Over Museum and then transferred to the Archaeological Research Center in 1974. The human remains with which the lot of charred wood fragments were originally associated were reburied in the mound at the close of the excavation in 1941. The human remains with which the two unmodified freshwater bivalve shells were originally associated were reburied along the Missouri River near Fort Pierre in 1986.

The Scalp Creek site dates to the Late Woodland period (A.D. 800 - A.D. 1200) and the Extended Coalescent Tradition (A.D. 1500 - A.D. 1675).

Evaluation of documentation from the excavation of the Daugherty Mounds and Scalp Creek sites indicates that the cultural items were found in association with Native American human remains. Other human remains from the Daugherty Mounds and Scalp Creek sites that remain in the possession and control of the Archaeological Research Center have been identified as Native American based on physical anthropological assessment, manner and location of burial, and types of funerary

objects associated with the human remains.

The Daugherty Mounds and Scalp Creek sites are located within Sioux aboriginal land as determined by the Indian Claims Commission and shown on the map of Indian Land Areas Judicially Established (1978). The Sioux are represented today by the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Sioux Indian Community in the State of Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Upper Sioux Indian Community, Minnesota; and Yankton Sioux Tribe of South Dakota.

Based on historical documents, oral history, and archeological data, the Cheyenne, Iowa, Omaha, Otoe & Missouria, and Sac & Fox people also occupied what is now present-day South Dakota and the surrounding region, and are represented today by the Iowa Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Officials of the Archaeological Research Center have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 14 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 Native American individuals. Officials of the Archaeological Research Center also have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot reasonably be traced between the cultural objects and any present-day Indian tribe.

In July 2003, the Flandreau Santee Sioux Tribe of South Dakota submitted a request to the Archaeological Research Center for repatriation of the culturally unidentifiable human remains and funerary objects from eastern, central, and northwestern South Dakota, and southeastern Montana, including the 14

unassociated funerary objects from the Daugherty Mounds and Scalp Creek sites, on behalf of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community, Minnesota; and Yankton Sioux Tribe of South Dakota.

Pursuant to 43 CFR 10.9 (e)(6), museums and Federal agencies must retain possession of culturally unidentifiable human remains pending promulgation of 43 CFR 10.11 unless legally required to do otherwise or recommended to do otherwise by the Secretary of the Interior. The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In November 2005, the Archaeological Research Center requested that the Review Committee recommend disposition of the culturally unidentifiable human remains and associated funerary objects from eastern, central, and northwestern South Dakota, and southeastern Montana to the Flandreau Santee Sioux Tribe of South Dakota on behalf of themselves and the Indian tribes listed above that comprise a consortium of 17 Indian tribes. The Review Committee considered the proposal at its November 2005 meeting in Albuquerque, NM, and recommended disposition of the human remains and associated funerary objects to the tribal consortium. A November 23, 2005 letter from the Designated Federal Officer, on behalf of the chair of the Review Committee, to the Archaeological Research Center transmitted the Review Committee's recommendation that the Archaeological Research Center effect disposition of the culturally unidentifiable human remains and

associated funerary objects to the tribal consortium contingent on the publication of a Notice of Inventory Completion in the **Federal Register**.

Disposition of unassociated funerary objects for which a relationship of shared group identity cannot be reasonably traced to a present-day Indian tribe does not require a recommendation from the Secretary. However, since these unassociated funerary objects were removed from two of the same sites for which human remains were already considered by the Review Committee, the Archaeological Research Center has decided to effect a similar disposition to the Flandreau Santee Sioux Tribe of South Dakota on behalf of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; the Flandreau Santee Sioux Tribe of South Dakota; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community, Minnesota; and Yankton Sioux Tribe of South Dakota.

Representatives of any Indian tribe that believes itself to be culturally affiliated with the 14 unassociated funerary objects should contact Renee M. Boen, Repository Manager, Archaeological Research Center, 2425 E. St. Charles St., Rapid City, SD 57703, telephone (605) 394-1936, before May 26, 2006. Disposition of the unassociated funerary objects to the Flandreau Santee Sioux Tribe of South Dakota on behalf of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma;

Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community, Minnesota; Yankton Sioux Tribe of South Dakota; and themselves, may proceed after that date if no additional claimants come forward.

The Archaeological Research Center is responsible for notifying the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community, Minnesota; and Yankton Sioux Tribe of South Dakota that this notice has been published.

Dated: April 13, 2006.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

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**BILLING CODE 4312-50-S**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

**AGENCY:** In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. AOL Express, Inc., et al.*, Civil Action No. C06-5204FDB, was lodged on April 13, 2006, with the United States District Court for the Western District of Washington. The consent decree requires defendants AOL Express, Inc.,

Arkema Inc., Edward and Molly Barry, Buffelen Woodworking Co., CHS Inc., Charles P. and Patricia Curran, Dunlap Towing Company, Estate of Norman Nordlund, Estate of Leslie P. Sussman, F.O.F., Inc., Hylebos Boat Haven, Hylebos Marina, Inc., Judy Johnson, Jones Chemicals, Inc., Joseph Simon & Sons/Rail & Locomotive Equipment Co., Louisiana-Pacific Corporation, Phyllis Nordlund, Nordlund Boat Company, Inc., Don and Alba Oline, Ronald Oline, Donald S. and Barbara L. Olson, Kay E. Olson, Olson & Curran Barnacle Stopping Salt Water Free Vertical Dry Dock Co. dba Ole & Charlie's Marinas Portac, Inc., Rayonier Properties, LLC, Paula Rose, Sussman Rose Sussman, Alan Sussman, Sophie Sussman, USG Interiors, Inc., Wasser & Winters Co., Inc., West Waterway Associates, P.S. and Zidell Marine Corporation to compensate natural resource trustees for natural resource damages in Commencement Bay, Washington, resulting from releases of hazardous substances. The trustees are the State of Washington, the Puyallup Tribe of Indians, the Muckleshoot Indian Tribe, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of the Interior. Under the consent decree, defendants will fund the construction of a salmon habitat restoration project in Pierce County, Washington, pay the trustees \$150,000 for project oversight, and reimburse a total of \$1,793,888.46 in trustee damage assessment costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. AOL Express, Inc.*, DOJ Ref. # 90-11-2-1049/6.

The proposed consent decree may be examined at the office of the United States Attorney, 601 Union Street, Seattle, WA 98101. During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site: <http://www.usdoj.gov/enrd/open.html> and at the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy please refer to the referenced case and enclose a check in the amount of