

**DECISION RECORD**  
*Lopez Island NAGPRA Re-interment*  
*BLM-OR-134-2013-13*  
Bureau of Land Management  
Wenatchee Field Office  
915 Walla Walla Avenue  
Wenatchee, Washington

**1. Background**

The Bureau of Land Management (BLM) received a request for re-interment of remains removed from BLM administered land on Lopez Island in San Juan County, Washington. The public lands are administered by the BLM's Spokane District, Wenatchee Field Office as an Area of Critical Environmental Concern, (ACEC) to preserve its natural values. Also, a recent designation of the San Juan Islands as a National Monument, specifically for cultural and biological resources, further highlights the importance of the natural values of the ACEC.

The Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community requested the remains be re-interred near the location where the remains were recovered. Custody of the remains was transferred from the BLM jointly to the Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community. The tribes requested remains collected and repatriated by University of Washington's Burke Museum be re-interred at the same location.

**2. Decision**

It is my decision to authorize actions described in the Environmental Assessment for Lopez Island Native American Graves Protection and Repatriation Act (NAGPRA) Re-interment (BLM-OR-134-2013-13-EA) to re-inter remains on Lopez Island as requested by the Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community.

Work to be performed will include re-interring the NAGPRA remains near the location of recovery using wheel barrows and hand tools to transport clean fill material from a nearby source. If fill material is not available in walking distance, it may be first transported using a nearby road or trail and then transported by wheelbarrow to the site. A layer of sediments will then be placed on the ground surface. The NAGPRA remains will be placed upon the prepared surface and covered with another layer of fill. The fill will be tamped and reseeded with native vegetation. A variety of native vegetation species will be planted to ensure sediment stability, reduce erosion, and reduce spread of noxious weeds.

The duration of work to prepare the site and complete the interment is expected to be 2 days, but even if unexpected scheduling or implementation issues are encountered, the

total duration of the work will not exceed 3 days. During this timeframe one piece of equipment, such as a light utility pickup, will deliver fill on an existing road or trail near the project area. All work will be performed by hand and will be monitored by a BLM archeologist.

### **3. Authority**

This action is subject to the authorities of the Native American Graves Protection and Repatriation Act (NAGPRA) on BLM administered lands on Lopez Island. The BLM Reburial Policy on BLM Lands (WO IM 2007-002) allows re-interment of remains on public lands subject to the authorities of the NAGPRA and other authorities, including BLM policy. In accordance with BLM policy (BLM Handbook 8120 and WO IM 2007-002 ), respect is the foundation for all decisions regarding reburial of American Indian and Alaska Native human remains and cultural items on BLM lands and BLM officials are expected to be sensitive to the diversity of tribal cultural beliefs. All activities and documentation related to reburial of American Indian and Alaska Native human remains and cultural items shall be kept confidential to the extent authorized by law. Pursuant to the National Historic Preservation Act of 1966, as amended, the specific location of the interment will not be disclosed.

### **4. Rationale**

This action meets the purpose for action to re-inter remains, subject to NAGPRA at a suitable location on BLM administered land in response to requests from the Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community, as well as the need to respond to this request.

The reburial of American Indian and Alaska Native human remains and cultural items is a discretionary action within the agency's administrative authorities. Tribal requests for reburial of ancestral human remains and cultural items are, in general, closely tied to repatriations of those remains and objects by the BLM under the terms of NAGPRA. The National Historic Preservation Act and E.O. 11593 provide for protection of cultural resources from natural and human caused deterioration ensuring cultural resources are safe guarded from improper use and maintained for the public interest.

Based on the effects identified in the Lopez Island NAGPRA Interment Environmental Assessment, I have determined that this project does not constitute a major federal action which would significantly affect the quality of the human environment either individually or cumulatively when combined with other actions in the general area.

None of the environmental effects identified for this project meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an Environmental Impact Statement (EIS) is not necessary and will not be prepared.

### **5. Public Involvement**

In March 2012, the BLM notified the Washington Department of Archaeology and Historic Preservation (DAHP), the Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community of plans to re-inter NAGPRA remains. DAHP concurred with a finding of “No Adverse Effect to Historic Properties”.

## **6. Coordination and Consultation**

Consultation regarding the project was initiated in June 2011 and again in March 2012 with the Department of Archaeology and Historic Preservation (DAHP), the Lummi Nation, the Samish Nation, and the Swinomish Indian Tribal Community. The DAHP concurred in April 2012 with a determination of No Adverse Effect to historic properties.

## **7. Protest and Appeal**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. To appeal you must file a notice of appeal at the BLM Wenatchee Field Office, 915 N. Walla Walla Ave., Wenatchee, Washington 98801, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Wenatchee Field Office as noted above. The BLM does not accept appeals by facsimile or email. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant’s success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR 4.413); Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, OR 97205; at the same time the original documents are filed with this office.

/s/ Linda Coates-Markle

08/13/2013

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Linda Coates-Markle  
Field Manager

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Date

**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**  
Wenatchee Field Office  
915 North Walla Walla Avenue  
Wenatchee, Washington 98801

**FINDING OF NO SIGNIFICANT IMPACT (FONSI)**  
**For**  
**Lopez Island NAGPRA Re-interment**  
**Environmental Assessment**  
**OR134-2013-0013**

**PROPOSED ACTION**

The Bureau of Land Management (BLM) proposes to re-inter remains subject to the authorities of the Native American Graves Protection and Repatriation Act (NAGPRA) on BLM administered lands on Lopez Island in San Juan County, Washington.

BLM administered land at Point Colville/Watmough Bay is located about 9 miles south of Lopez Village, in the southern extent of Lopez Island, within San Juan County. The public lands are administered by the BLM's Spokane District, Wenatchee Field Office as an Area of Critical Environmental Concern, (ACEC) to preserve its natural values. Also, a recent designation of the San Juan Islands as a National Monument, specifically for cultural and biological resources, further highlights the importance of the natural values of the ACEC.

See the Environmental Assessment (EA) for additional background on the proposed project.

**FINDING OF NO SIGNIFICANT IMPACTS (FONSI)**

Based on the effects identified in the NAGPRA Interment Environmental Assessment, I have determined that the Proposed Action Alternative does not constitute a major federal action which would significantly affect the quality of the human environment either individually or cumulatively when combined with other actions in the general area.

None of the environmental effects identified for this alternative meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an Environmental Impact Statement (EIS) is not necessary and will not be prepared.

This Finding of No Significant Impact (FONSI) is based on a review of the following Council of Environmental Quality (CEQ) criteria, consistent with 40 CFR 1508.27. Pursuant to 40 CFR 1508.13 and 1508.27, the potential "significance" of all reasonable alternatives has been evaluated. I have concluded that there will be no significant effect on the human environment (including the natural and physical environment and the relationship of people with that environment). No significant irreversible or irretrievable resource commitments have been made, and long-term productivity has not been sacrificed in order to meet the project objectives. This determination is based on *Context* and *Intensity*, defined and examined below.

*Context:* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant. The disclosure of effects in the EA found the actions to be limited in context. The Proposed Action and its effects are limited to a one mile radius surrounding the project area. Because the project area is limited in size, the proposed construction activities are limited in duration, and the effects are local in nature, this alternative's effects are not likely to significantly affect regional or national resources.

*Intensity:* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following ten factors have been considered in evaluating the intensity of this action:

**1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that, on balance, the effects will be beneficial.**

Impacts associated with the project are discussed in the Affected Environment and Environmental Effects Sections of the EA. The project will result in no adverse effects to resources in the Project Area. The proposed action will reinter NAGPRA remains in response to requests from the Lummi Nation, Samish Nation, and the Swinomish Indian Tribal Community. Ground disturbance could affect some species short-term, but these effects would be temporary and any displaced species would be expected to return once re-interment activities are completed. Therefore, none of the anticipated effects are expected to be significant.

**2. The degree to which the proposed action affects public health or safety.**

The Proposed Action is not expected to have any impacts related to public health.

**3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The Proposed Action would occur in proximity to historic or cultural resources, however, no adverse impacts to these cultural resources is expected (EA p. 8). Consultation with the Washington State Department of Archaeology & Historic Preservation (DAHP) concurred with the Agency's determination of no adverse effect.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

The Proposed Action is not expected to have any effects on the quality of the human environment.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The Proposed Action does not contain any unique or unknown risks to the human environment.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

The Proposed Action does not set a precedent or alter existing management direction for the analysis area. The BLM will continue to manage this area as part of the San Juan National Monument to preserve the cultural and natural values for which it was designated.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.**

A review of the cumulative impacts associated with the Proposed Action and reasonably foreseeable future actions found there would be no significant cumulative effects on the environment. Due to the current designation of the San Juan National Monument, no large scale development, road construction and/or other actions which would deter from the natural character of the area are planned.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.**

There would be no adverse impacts to significant scientific cultural or historical resources identified in the analysis area (EA p. 8).

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.**

The environmental assessment considered the potential effects of the proposed action on all federally listed and proposed endangered and threatened species and designated critical habitat known or suspected to occur in the analysis area (EA p. 12-20) and determined that no adverse effects would result from implementation of the proposed project.

**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

The Proposed Action does not violate any Federal, State, or local laws or requirements imposed for the protection of the environment.

/s/ Linda Coates-Markle

08/13/2013

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Linda Coates-Markle  
Field Manager

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Date