

“Chief Black Hawk” is not known to the Comanche Nation. On June 24, 2021, after reviewing new information uncovered by the Museum about the Tonkawa Massacre and information the Comanche Nation acquired from the Smithsonian Institution, the Comanche Nation informed the Museum that the Nation could find no evidence to support a finding that the individual is Comanche. Consequently, the tribal affiliation of the individual is unknown. Moreover, Delaware, Caddo, Comanche, Kiowa, and Shawnee individuals were reported to have been present on October 23–24, 1862 (although there are conflicting accounts).

Determinations Made by Baylor University’s Mayborn Museum Complex

Officials of Baylor University’s Mayborn Museum Complex have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on museum records, including stories and newspaper accounts.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Cheyenne and Arapaho Tribes, Oklahoma [previously listed as Cheyenne-Arapaho Tribes of Oklahoma]; Comanche Nation, Oklahoma; Jena Band of Choctaw Indians; Kiowa Indian Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Northern Arapaho Tribe of the Wind River Reservation, Wyoming [previously listed as Arapaho Tribe of the Wind River Reservation, Wyoming]; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Quapaw Nation [previously listed as The Quapaw Tribe of Indians]; The Chickasaw Nation; The Choctaw Nation of Oklahoma; Tonkawa Tribe of Indians of Oklahoma; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma (hereafter referred to as “The Tribes”).
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Anita L. Benedict, Baylor University’s Mayborn Museum Complex, One Bear Place #97154, Waco, TX 76798–7154, telephone (254) 710–4835, email anita_benedict@baylor.edu, by November 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

Baylor University’s Mayborn Museum Complex is responsible for notifying The Consulted and Notified Indian Tribes that this notice has been published.

Dated: October 6, 2021.

Melanie O’Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–22743 Filed 10–18–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032768; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Ohio History Connection, Columbus, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Ohio History Connection, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of an unassociated funerary object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Ohio History Connection. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Ohio History

Connection at the address in this notice by November 18, 2021.

FOR FURTHER INFORMATION CONTACT:

Nekole Alligood, NAGPRA Specialist, Ohio History Connection, 800 E 17th Avenue, Columbus, OH 43211, telephone (405) 933–7643, email nalligood@ohiohistory.org.

SUPPLEMENTARY INFORMATION: 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 a cultural item under the control of the Ohio History Connection, Columbus, OH, that meets the definition of an 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 Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

In 1886, one cultural item was removed from Duck River in Tennessee. According to the Ohio History Connection catalog, the object, a shell gorget, was part of the W.K. Moorehead collection. While the collection as a whole is described on an accession card as “general collection of archaeological specimens, mainly surface, assembled by W.K. Moorehead,” the notes for catalog number A0067/60 describe the object as belonging to “shell ornaments . . . from a grave, Duck River, Tenn.” Based upon evidence linking the Chickasaw people to the southeastern United States, including Tennessee, as documented in the Treaties of 1805 and 1816, a relationship of shared group identity can reasonably be traced between Muskogean linguistic cultures and this object.

Determinations Made by the Ohio History Connection

Officials of the Ohio History Connection have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is 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.
- 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 object and The Chickasaw Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Nekole Alligood, Ohio History Connection, 800 E 17th Avenue, Columbus, OH 43211, telephone (405) 933-7643, email nalligood@ohiohistory.org, by November 18, 2021. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary object to The Chickasaw Nation may proceed.

The Ohio History Connection is responsible for notifying The Chickasaw Nation this notice has been published.

Dated: October 6, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000
212S180110; S2D2S SS08011000
SX064A000 21XS501520]

OSMRE Jurisdiction To Administer the Surface Mining Control and Reclamation Act of 1977 Within the Exterior Boundaries of the Cherokee Nation Reservation and the Choctaw Nation Reservation in the State of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of jurisdiction.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are notifying the public that the recent decisions of the Oklahoma Court of Criminal Appeals in *Hogner v. Oklahoma*, 2021 WL 958412 (Okla. Ct. Crim. App. March 11, 2021), and *Sizemore v. Oklahoma*, 2021 WL 1231493 (Okla. Ct. Crim. App. April 1, 2021)—which held that the historic Cherokee Nation of Oklahoma and the Choctaw Nation of Oklahoma Reservations, respectively, had not been disestablished—necessarily foreclose the State of Oklahoma's authority to implement the Surface Mining Control and Reclamation Act of 1977 (SMCRA) on Indian lands within the exterior

boundaries of the Cherokee Nation and Choctaw Nation of Oklahoma Reservations. This determination follows the recent decision of the United States Supreme Court in *McGirt v. Oklahoma*, 140 S Ct. 2452 (2020), which legally recognized the ongoing existence of the historic Muscogee (Creek) Nation Reservation in the State of Oklahoma and necessarily foreclosed the State of Oklahoma's authority to implement SMCRA on Indian lands within the exterior boundaries of the Muscogee (Creek) Nation Reservation. As OSMRE stated in its recent notification regarding SMCRA jurisdiction on the Muscogee (Creek) Nation Reservation, SMCRA designates OSMRE as the sole regulatory authority over surface coal mining and reclamation operations on Indian lands where a tribe has not obtained primacy. Consistent with the Supreme Court's decision in *McGirt*, Oklahoma may not exercise its State program regulatory authority over surface coal mining and reclamation operations within the exterior boundaries of the Cherokee Nation and Choctaw Nation of Oklahoma Reservations. Accordingly, for lands within the exterior boundaries of the Cherokee Nation and Choctaw Nation Reservations, OSMRE is the sole agency with jurisdiction over the SMCRA Title IV abandoned mine land (AML) reclamation and Title V regulatory programs. The Cherokee Nation Reservation consists of lands, wholly or partially within the following counties: Adair, Cherokee, Craig, Delaware, Mayes, McIntosh, Muskogee, Nowata, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, and Washington. The Choctaw Nation of Oklahoma Reservation consists of lands, wholly or partially within the following counties: Atoka, Bryan, Choctaw, Coal, Haskell, Hughes, Johnston, Latimer, Le Flore, McCurtain, Pittsburg, Pontotoc, and Pushmataha.

DATES: As of June 17, 2021, OSMRE notified Oklahoma of OSMRE's responsibilities under SMCRA Title IV and Title V programs within the exterior boundaries of the Cherokee Nation and Choctaw Nation of Oklahoma Reservations.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Regional Director (DOI Interior Regions 3, 4, and 6), Office of Surface Mining Reclamation and Enforcement, 501 Belle St., Suite 216, Alton, IL 62002; Telephone (618) 463-6463 Ext. 5101.

SUPPLEMENTARY INFORMATION: The decisions in *Hogner* and *Sizemore* both rely on the rationale of the United States Supreme Court in *McGirt v. Oklahoma*,

140 S Ct. 2452 (2020). Following *McGirt*, OSMRE evaluated Oklahoma's implementation of its approved regulatory program to identify any inconsistency with the *McGirt* decision. On April 2, 2021, OSMRE sent letters to the Oklahoma Conservation Commission (OCC) and the Oklahoma Department of Mines (ODM) notify those agencies of OSMRE's responsibilities under SMCRA's Title IV and Title V program within the exterior boundaries of the Muscogee (Creek) Nation Reservation. OSMRE notified the public of its jurisdiction via **Federal Register** notice, published on May 18, 2021 (86 FR 26941).

Although *McGirt* expressly recognized the ongoing existence of only the Muscogee (Creek) Nation Reservation, in *Hogner* and *Sizemore* the Oklahoma Court of Criminal Appeals examined the relevant treaties and congressional acts and applied *McGirt*'s reasoning to conclude that the Cherokee Nation and Choctaw Nation of Oklahoma Reservations had not been disestablished. The U.S. Department of Justice subsequently recognized that the Cherokee Nation and Choctaw Nation of Oklahoma Reservations had not been disestablished and has determined that the United States has criminal jurisdiction over major crimes committed within the boundaries of these reservations. As those reservations have not been disestablished, the lands within the exterior boundaries of the Cherokee Nation and Choctaw Nation of Oklahoma Reservations constitute "Indian lands" as defined by SMCRA, prohibiting the State of Oklahoma from exercising jurisdiction over surface coal mining and reclamation operations within the exterior boundaries of these reservations. On June 17, 2021, OSMRE sent letters to OCC and ODM notifying those agencies of OSMRE's responsibilities under SMCRA's Title IV and Title V programs within the exterior boundaries of the Cherokee Nation and Choctaw Nation Reservations. This notification began a coordination period to allow for the orderly transfer of all OCC and ODM records, documents, data, and other information associated with the regulation of activities under SMCRA within the exterior boundaries of the Cherokee Nation and Choctaw Nation of Oklahoma Reservations.

Pursuant to SMCRA, States may acquire the primary responsibility (*i.e.*, primacy) for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State. To obtain primacy, a State must develop a regulatory and/or abandoned mine land program(s) that meets the minimum standards set forth