

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[AZ-910-0777-26-241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting notice.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council (RAC).

The business meeting will be held on September 17, 2003, at the BLM National Training Center, 9828 North 31st Avenue in Phoenix, Arizona. It will begin at 9:30 a.m. and conclude at 4 p.m. The agenda items to be covered include: review of the July 10, 2002 meeting minutes; BLM State Director's Update on Statewide Issues; RAC Discussion on Standards for Rangeland Health and Guidelines for Grazing Administration (S&Gs) Working Group Recommendations on the Sustaining Working Landscape Initiative; a public comment period (between 10:30 a.m. and 12:30 p.m.) will follow this discussion for the RAC to accept verbal and written comments from the public. *The focus of this meeting will be to develop the RAC's recommendations for the Sustaining Working Landscape Initiative, and to gather public comments on those recommendations to forward to BLM in Washington DC.* However, if time permits the following agenda items will be presented: BLM's Budget Development Process and E-Planning Pilot Project; RAC Questions on Written Reports from BLM Field Office Managers; Field Office Rangeland Resource Team Proposals; Reports by the Standards and Guidelines, Recreation and Tourism, Public Relations, Land Use Planning, and Wild Horse and Burro Working Groups; Reports from RAC members; and Discussion of future meetings.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004-2203, (602) 417-9215.

Carl Rountree,

Acting Arizona State Director.

[FR Doc. 03-21267 Filed 8-19-03; 8:45 am]

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DEPARTMENT OF THE INTERIOR**National Park Service**

Native American Graves Protection and Repatriation Review Committee Findings and Recommendations and Minority Opinion Regarding a Dispute Between the Royal Hawaiian Academy of Traditional Arts and the Bernice Pauahi Bishop Museum

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: At a May 9-10, 2003, public meeting in St. Paul, MN, the Native American Graves Protection and Repatriation Review Committee considered a dispute between the Royal Hawaiian Academy of Traditional Arts (Honolulu, HI) and the Bernice Pauahi Bishop Museum (Honolulu, HI). The dispute focuses on whether an appropriate repatriation pursuant to the Native American Graves Protection and Repatriation Act has been completed between the Bishop Museum and 13 culturally affiliated Native Hawaiian organizations for 83 cultural items that were recovered in the early 20th century from the Kawaihae Caves complex on Hawaii Island, HI. The Review Committee considered written and oral presentations by both parties, and responses to questions posed to both parties. Following is background information on the dispute, the Review Committee's findings and recommendations, and the minority opinion of a Review Committee member.

SUPPLEMENTARY INFORMATION:

Background. The National Park Service publishes this notice as part of its administrative and staff support for the Review Committee. The findings, recommendations, and minority opinion are those of the Review Committee and do not necessarily represent the views of the Secretary of the Interior or the National Park Service. Neither the Secretary of the Interior nor the National Park Service has taken a position on these matters.

The Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.) directs the Secretary of the Interior to establish and maintain an advisory committee of seven private citizens nominated by Indian tribes, Native Hawaiian organizations, and national museum organizations and scientific organizations. Review Committee responsibilities include "facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal

agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable" (25 U.S.C. 3006 (c)(4)). The Review Committee's dispute procedures are available online at www.cr.nps.gov/nagpra (click on "Review Committee," then click on "Procedures").

The following background information regarding this dispute was developed from materials submitted by the Royal Hawaiian Academy of Traditional Arts and the Bernice Pauahi Bishop Museum.

On February 26, 2000, the museum loaned 83 items from the Kawaihae Caves collection to Hui Malama I Na Kupuna o Hawai'i Nei, a Native Hawaiian organization. Hui Malama I Na Kupuna o Hawai'i Nei was one of four culturally affiliated Native Hawaiian organizations then recognized by the museum under NAGPRA. At the time of the loan, not all four of the culturally affiliated Native Hawaiian organizations were aware of or concurred with the loan or other terms or conditions of transfer. Hui Malama I Na Kupuna o Hawai'i Nei claims that the 83 items were then sealed in 1 of the Kawaihae Caves, on Hawaii Island, HI.

On April 5, 2000, notices of inventory completion and intent to repatriate for human remains and funerary objects were published in the Federal Register (volume 65, number 66; FR Doc. 00-8350 and FR Doc. 00-8351) on behalf of the museum. The notices listed 4 Native Hawaiian organizations as culturally affiliated, and included the 83 items on loan to Hui Malama I Na Kupuna o Hawai'i Nei.

In August 2000, 7 additional Native Hawaiian organizations were determined to be culturally affiliated by the museum. Later that year, 2 more Native Hawaiian organizations were determined to be culturally affiliated by the museum, bringing the number of culturally affiliated Native Hawaiian organizations to 13. Members of several of the 13 culturally affiliated Native Hawaiian organizations asked to view the 83 items on loan to Hui Malama I Na Kupuna o Hawai'i Nei. The museum declined to grant this request.

On September 18, 2000, the museum's board of directors voted to recall the loan of the 83 items and Hui Malama I Na Kupuna o Hawai'i Nei was informed of the museum's decision. Hui Malama I Na Kupuna o Hawai'i Nei did not return the items in response to the recall.

On March 9, 2001, revised notices of inventory completion and intent to repatriate were published in the Federal Register (volume 66, number 47; FR

Doc. 01-5940 and FR Doc. 01-5941) on behalf of the museum. The notices listed 13 Native Hawaiian organizations as culturally affiliated. On March 12, 2001, the museum notified the 13 culturally affiliated Native Hawaiian organizations that the revised notices had been published.

On April 12, 2001, the museum informed the 13 culturally affiliated Native Hawaiian organizations that the museum had completed the NAGPRA requirements for repatriation to the 13 organizations. The museum requested that the 13 organizations notify the museum if repatriation and final disposition would require the recovery of the subject items from their "present location."

On August 7, 2001, the museum informed the 13 culturally affiliated Native Hawaiian organizations that the museum had repatriated the human remains and funerary objects to the 13 organizations on April 12, 2001, and that final disposition was the responsibility of the 13 organizations. The museum also stated that its role and statutory responsibility under 43 CFR 10.10 (d) was completed.

Between August 2001 and March 2002, the Royal Hawaiian Academy of Traditional Arts, one of the culturally affiliated Native Hawaiian organizations, continued to discuss the status of the repatriation with representatives of the museum.

On March 18, 2002, the museum sent an e-mail message to the academy, which stated that "the museum has completed its statutory responsibility under NAGPRA," and considered the matter closed. On the same day, the academy wrote to the Review Committee, requesting that the Review Committee consider a dispute between the academy and the museum.

Findings and Recommendations. On May 9-10, 2003, the Review Committee considered the dispute as presented by representatives of the Royal Hawaiian Academy of Traditional Arts and the Bernice Pauahi Bishop Museum, and, by a 6-1 vote, made the following findings and recommendations --

"The dispute seeks to establish whether an appropriate repatriation occurred between the Bernice Pauahi Bishop Museum and 13 claimants for 83 items described as "human remains" and "funerary objects" recovered from the Kawaihae Caves complex (Forbes Cave) in Hawaii in the early 20th century.

"The 13 claimants are the culturally affiliated Native Hawaiian organizations listed in 2 Federal Register notices: FR Doc. 01-5940 and FR Doc. 01-5941. The 83 items are those listed in the

museum's shipping invoice BP-20194, dated February 26, 2000.

"Having reviewed documentation submitted by the Royal Hawaiian Academy of Traditional Arts, 1 of the 13 claimants, and the museum, as well as having considered their oral presentations, the Review Committee finds that --

"1. The repatriation process used by the museum for the 83 items was flawed and remains incomplete.

"2. The place and manner of return for the 83 items has not been determined consistent with NAGPRA (25 U.S.C. 3005 (a)(3) and 43 CFR 10.10 (d)).

"3. The museum is responsible for the completion of the repatriation process for the 83 items.

"The Review Committee recommends that --

"1. The museum renew the consultation process for repatriation of the 83 items.

"2. The museum recall the February 26, 2000, loan of the 83 items to Hui Malama I Na Kupuna O Hawai'i Nei.

"3. The 13 claimants in the consultation process be treated in a respectful and equitable manner.

"4. The 83 items be made available to all parties in the consultation.

"The Review Committee commends the Royal Hawaiian Academy of Traditional Arts and the Bernice Pauahi Bishop Museum for their willingness to continue consultation and for their positive attitude towards finding the most appropriate repatriation and disposition solutions."

Minority Opinion by Ms. Rosita Worl. "The Review Committee recommended that a museum reopen a final decision and begin anew. I am unable to support the findings and recommendations of the Review Committee based on my understanding of NAGPRA, and thus offer a minority opinion.

"NAGPRA provides that a decision is final when a museum makes a determination that an item meets a NAGPRA category and that it is culturally affiliated to groups with standing to make a claim, the culturally affiliated groups exercise their right to claim, the notice is published in the Federal Register, the 30-day period lapses without controversy, and the item is transferred to the claimants.

"In 2001, 13 Native Hawaiian organizations filed claims for 83 human remains and funerary objects under the control of the Bernice Pauahi Bishop Museum. On March 9, 2001, the museum published notices in the Federal Register of its determination that the 83 objects satisfy the statutory definitions of human remains and

funerary objects and that the cultural items are culturally affiliated with the 13 claimants. No additional claimants came forward following publication of the notices. In a letter dated April 12, 2001, the museum repatriated the 83 human remains and funerary objects identified in the March 9, 2001, notices to the group consisting of the 13 claimants. The letter stated '[w]ith completion of repatriation, the legal interest in these human remains and funerary objects is transferred to the group. Final disposition is now the responsibility of the group.'

"The place and manner of repatriation are to be resolved by the museum and the claimant, but in this instance a claimant or claimants were already in possession. NAGPRA does not require that loans be recalled as a predicate to a determination and publication of a notice. A museum can maintain possession of an item during the pendency of a dispute. In this instance, the museum was notified that an agreement was reached and the museum then sent out a letter indicating that the matter was now in the hands of those asserting the claim. The museum obligation was then completed and any future dispute between the 13 claimants does not include the museum.

"The decision of the Review Committee grants a museum request to rethink a previous published decision. In so doing this, the Review Committee has granted the desires of one museum to the detriment of all museums that have an interest in the finality of decisions and the minimization of risk and cost in repatriation. NAGPRA expressly protects museums in 25 U.S.C. 3005 (f), and the findings and recommendations of the Review Committee seek to nullify that provision which is outside of the Review Committee's statutory authority.

"The minority opinion is that the Bernice Pauahi Bishop Museum is no longer a party in any dispute among the claimants as to the final resting place of the human remains and funerary objects. Whether the Review Committee may now assist the 13 claimants in resolving the dispute among them is a separate matter."

Dated: June 12, 2003.

Armand Minthorn,

Chair, Native American Graves Protection and Repatriation Review Committee.

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