

Burial Preservation Board  
Meeting Minutes  
February 5, 2010  
3:30 p.m. – 5:00 p.m.  
MetNet Video Conference

**Members Present:**

Reuben Mathias, Chairperson, Confederated Salish-Kootenai Tribe Representative  
Stephen Platt, Historical Preservation Office Representative  
Robert P. Four Star, Fort Peck Tribes Representative  
Terry Bullis, Coroner's Association Representative  
William Big Day, Crow Tribe Representative  
Linwood Tall Bull, Northern Cheyenne Tribe Representative  
Marilyn Silva, Public Representative  
Dr. Ruthann Knudson, Archaeological Society Representative

**Staff:**

Mike Manion, Chief Legal Counsel, Department of Administration  
Jennifer Perez Cole, Governor's Office of Indian Affairs  
Stan Wilmoth, State Archaeologist, Montana Historical Society  
Shannon Lewis, Department of Administration  
Andrew Huff, Legal Counsel, Governor's Budget & Program Planning Office

**Public:**

Gail Gutsche, Former Legislator who carried the Montana Repatriation Act in 2001

**Minutes:** Shannon Lewis

**Call to Order:**

**Action**

Reuben Mathias called the meeting to order at 3:40 p.m.

**Action**

Robert Four Star opened the meeting with a prayer.

**Approval of September 19, 2008 and December 1, 2008 Meeting Minutes:**

**Discussion**

Mike Manion gave the board a brief summary of past meetings and the past decisions of the board. He also let the board know that at the May meeting the board will formally elect a chair. He emphasized that the staff of the board are available for support with any work the board would like to accomplish and move forward.

The board discussed the two sets of minutes for approval, the December 1, 2008 minutes and the September 19, 2009 meeting minutes.

**Action**

Robert Four Star moved and Ruthann Knudson seconded a motion to pass the September 2009 meeting minutes.

*Motion passed unanimously*

**Action**

William Big Day moved and Robert Four Star seconded a motion to pass the December 1, 2008 meeting minutes.

*Motion passed unanimously*

**Review the Statutory Responsibilities of the Board:**

Mike Manion addressed the board about their statutory responsibilities, beginning with 22-3-802, MCA, which outlines the Legislative findings and intent of the Human Skeletal Remains and Burial Site Protection Act. Mike pointed out that the statute states that, "the state and its citizens have an obligation to protect from disturbance or destruction all human skeletal remains, burial sites, and burial material, including those in marked, unmarked, unrecorded, registered or unregistered graves or burial grounds." He emphasized that preservation in place is the preferred policy for dealing with all human remains, artifacts, or burial sites.

He also discussed the importance of balancing the interests of those having kinship, tribal, cultural, or religious affiliation with the burial site and the interests of scientists, landowners and developers.

Stan Wilmoth, the State Archaeologist, gave the board a summary of the registry required under 22-3-804, MCA, "the board shall provide for the establishment and maintenance of a registry of burial sites located in the state." Stan explained that when the legislation was passed, the board decided that the State Historic Preservation Office would maintain the information within the current database, which houses the record of historic sites. In order to protect the information, all entries for unmarked graves, human remains or funerary objects are password protected and only accessible with permission by the State Archaeologist (Stan Wilmoth). In addition, all hard copies of old, ongoing, or new cases are in a secured filing cabinets at the State Historic Preservation Office.

Mike went on to discuss the Repatriation Act, which, under 22-3-905, MCA, states:

"An agency or museum that on or after May 2, 2001, has possession or control over human skeletal remains or funerary objects shall within 6 months complete an inventory of all human

skeletal remains and funerary objects. . . the agency or museum shall provide a copy of the inventory to:

- (a) the board;
- (b) the state historic preservation office;
- (c) each tribal government located in Montana."

Stan reported that there wasn't very much response and that many of the major museums provided the inventory; however, many of the small county museums did not submit an inventory. Stan currently has 6 or 7 inventories and has addressed the Museum Association about the issue, but has not had any response.

The board went on to discuss that compliance with the inventory requirement is difficult to enforce because there is no penalty assessed to museums that are out of compliance and haven't submitted their inventory.

### **Review of Proposed Administrative Rules:**

Mike Manion and Shannon Lewis reviewed the Administrative Rules prepared for the Burial Board by the department. The Administrative Rules outline the hearing procedures for a contested case hearing that would be conducted by the board. Board members commented and suggested changes.

Mike Manion and Shannon will incorporate the comments from the board and meet with a subcommittee consisting of John Murray, Ruthann Knudson and Gail Gutsche to finalize the rules and move them forward through the rule-making process.

### **Review Proposed Burial Board Pamphlet**

Mike discussed the procedures outlined in 22-3-805, MCA and pointed out that while the procedures are clear in law; they are rarely followed when remains are discovered. In fact, often times the remains are removed from their location and sent to a crime lab and often never make their way back to the Burial Board for repatriation. Because the process is rarely followed, the board will move forward with an educational brochure put together by the Governor's Office of Indian Affairs.

Terry Bullis agreed to present the brochure and information about the board and its responsibilities to the Coroner's Association meeting in May.

Andy Huff addressed the proposed brochure for the Burial Preservation Board. The design of the pamphlet is to give critical information to law enforcement officers, landowners, and coroners about how to deal with human remains on state or private lands. The brochure emphasizes that once the coroner establishes that the remains are not related to a criminal investigation, they are to remain in place. He pointed out that the pamphlet has a procedural chart

outlining the statutory process for dealing with historic human remains or funerary objects.

The board agreed to review and approve the brochure through e-mail and then distribute it strategically throughout the state.

**Recent burial/repatriation activities:**

Stan Wilmoth reported that there haven't been any recent activities; however, over the summer the Blackfeet Tribe reburied approximately 10 people.

Stan also reported that during the last week he received a phone call from the Hill county coroner regarding remains that were discovered in a box purchased at a sale. The remains consisted of a jaw bone, and have already been sent to the state crime lab. As soon as he hears from the crime lab, he'll send out notice to the board. Usually, the remains would go to the nearest Tribe for repatriation.

Reuben Mathias recalled past board discussions about a neutral burial location to address remains that can't be returned to a specific Tribe. This should be an agenda item for the next board meeting.

Stan and Steve Platt discussed a case involving the remains of a Northern Cheyenne individual that were discovered a number of years ago during road construction around Miles City. The remains were moved to Oklahoma City and Stan and Steve have been working on finding a place to bury the remains. Stan and Steve will work with Linwood Tall Bull and the Northern Cheyenne Cultural Committee to find a location to rebury the remains.

**Set Next Meeting Date:**

The next meeting will be, Friday, May 14 at 10:00 a.m. in Helena.

**Adjournment:**

The Burial Preservation Board meeting adjourned at 5:00 p.m.