



Minutes

May 12, 2023

10:00 AM – 2:30 PM

Board Members Present:

In-person Helena: Kevin Askan, Skye Gilham, Vice-Chair Erika Scheuring,

By Zoom: Chair Conrad Fisher, Michael BlackWolf, Andy LeBrun, Thomas Livoti, Duane Reed

Staff Present: Terri Hogan, legal counsel, and Jessica Bush, State Archaeologist, State of Montana Historic Preservation Office (SHPO), Katy Brandeis, Department of Administration

1. Call to Order

- a. Chair Fisher called the meeting to order at 10:14 am. Quorum acknowledged.

2. Introductions

- a. Chair Fisher welcomed all to the meeting. Black Wolf said prayer.
- b. Board members and staff present introduced themselves.

3. ACTION ITEMS:

- a. **MOTION:** Scheuring motioned to approve the January 24, 2023 meeting minutes. LeBrun seconded the motion. No questions. Motion passed unanimously.
- b. **NEW CASE: BH-03.** (Jessica Bush summarized a May 11, 2023 email) On May 10, 2023, human remains (tooth and vertebrae) and archaeological items (beads/bird bone) were found while excavating around an old store area at Chief Plenty Coups State Park. Work was immediately halted and authorities properly notified. After determining the remains to be archaeological, Aaron Brien, the Crow TPO, expressed a preference for reburial in the open unit. The bones and other materials were returned and are to be reinterred where found. There will be no more work around the store area. Jessica will complete the paperwork. No further action is needed.
- c. Case Update **BH-01** (Jessica Bush provided an update, no Board action required) A skull of a Caucasian soldier from the early 1900s was taken from Little Big Horn Battlefield. **Action Item:** Jessica to communicate with Richard Olson, the park's archaeologist, to return the skull.

- d. Discussion on Case **BH-02** (Jessica Bush provided an update, Board action required)
Remains discovered in 2022 at the Tongue River Reservoir on State Lands. Remains are archaeological. The Billings Crime Lab is waiting for Board direction on where to transfer and proper reinterment. Chairman Fisher discussed the nearest and closest tribe as the preferred place to reinter archaeological human remains which allows the tribe independence and opportunity to choose a place in a setting where the remains will not be disturbed any longer. While they are all our relatives – whether 2,000 or 5,000 years old – it is hard to find cultural affiliation without knowing specific relatives. Askan offered to represent the Board and take the initial steps and report to the Board his progress, whether it be Northern Cheyenne or Crow Tribe or whether Medicine Rocks is a possible place for reinterment. The Board can draft a letter to FWP for assistance in reinterment. **MOTION:** Scheuring motioned for Kevin Askan to work with Aaron Brian on a reinterment location for BH-02. Livotti seconded. No questions. Motion passed unanimously. **MOTION:** Scheuring motioned for Kevin Askan to work to identify a common reinterment location in SE Montana for cases before the Board that are unidentified culturally affiliated remains. Michael BlackWolf seconded the motion. No questions. Motion passed unanimously.
- e. Discussion on Cases **CR-01/PR-01/PR-02/TE-01**. These are ready to go to Northern Cheyenne. Chairman Fisher will meet with Jessica Bush to complete transmittal.
- f. Discussion on Case **CR-02** (Jessica summarized). A skull attached to a wooden board was found under a trailer house. An analysis was completed, and University of Montana lab sent a letter expressing concern that this skull might be of South Asian descent and possibly taken during WWII or the Korean War and UM want to take further action with DNA analysis. Chairman Fisher discussed the option of further analysis to get a clearer picture of the skull's origins and confirm Asian descent. Chairman Fisher notes that there is a lot of cooperation on repatriating service men and women lost and coming back to American soil and in the spirit of looking beyond our borders, it is imperative we find out who the individual is – Japanese, Chinese, Korean, Vietnam – there is a responsibility to get our people back. Livoti recommended DNA testing at a minimum to determine the skull origins. Chairman Fisher agreed this is a moral and ethical, philosophical, and political question – philosophical view of this individual – moral and political question and UM lab should test the DNA. Gilham offered to contact the lab and discuss further DNA analysis and see where it ends up. **MOTION:** Scheuring motioned for Gilham and Jessica to work

with UM on further analysis on case CR-02 and transfer the skull from the State Crime Lab to UM. Askan seconded. No question. Motion carried unanimously.

- g. Discussion on Case **FA-01**. Gilham updated this Fallon County case where remains and burial items that are associated with a Native American were found in Ekalaka, near Baker, Montana in the rolling hills and small canyons. The remains are at the SHPO office with Jessica. Askan offered to find a common area, possibly BLM land or Medicine Rocks, to reinter remains. Ekalaka is close to Medicine Rocks (Terri). Official letter from State Board – spurs action. **MOTION:** Gilham motions for Terri to draft a letter on behalf of Burial Board for Chairman Fisher and/or Scheuring to sign and send to Montana Fallon County Sheriff, seeking the return of case FA-01 funerary items discovered with burial items. Seconded by Andy LeBrun. No questions. Motion carried unanimously.
 - h. Discussion on Case **LT-01**. Jessica transferred to BOR on Tuesday. Reinterment with additional remains and reburial by BOR. Case concluded and closed.
 - i. Discussion on Cases **MO-01/MO-02/MO-03**. Update from Gilham, MO-03 is a skull found in a professor’s office and is being turned over directly from University of Montana to Confederated Salish and Kootenai Tribes (CSKT) who will contact the Native American Graves Protection and Repatriations Act (NAGPRA) Coordinator, Courtney Little Ax, about getting it returned soon. This is mostly taken care of and ready. **MOTION:** Gilham motioned for the MO-03 remains to have Michael BlackWolf get an update whether skull is part of UM Heritage Collection and part of repatriation and burial process and update Burial Board on its status. Seconded by Tommy Livoti. No questions. Motion carried unanimously. Gilham reported that Case MO-02 is a different situation. Tim Ryan found remains while going through parent’s belongings/collection in the Rattlesnake area, Missoula County, and the location of remains are unknown. **Action Item:** Askan will give the reporting person a call (Tim Ryan?). Askan to call Carl Davis and keep working on MO-02.
 - j. Discussion on Cases **TL-01/TL 02**. Skye reports that TL-01 is at the SHPO office and TL-02 is a skull found in Toole County near Blackfeet Reservation and, also at the SHPO office. There are no informational updates. **Action Item:** Gilham will contact the Blackfeet to initiate the process on repatriation and reburial.
4. BOARD BREAKS at 12:07 pm, will begin at 12:25 pm. Michael BlackWolf has another meeting from 12-1 pm.
5. **ACTION ITEMS** (resuming at 12:25 pm)

- a. Discussion on Cases **FH-01/UN-08**. Jessica updated that UM Forensics is in possession of two skulls and analysis to definitively define which one is which. Came from Montana Historical Society and might have been mismarked. FH-01 has frontal damage, maybe post-mortem by plow blade and UN-08 is a female 25-35 years. One is from the Flathead County area. Askan advised that CSKT wants to be in close communication with progress on the skull from Flathead County with opportunity to assist in exchange and future reinterment.
- b. Discussion on Cases **LC-01/ML-02/UN-01**. Jessica reported that all items are burial items, not human remains, with a high probability that the funerary objects are Native American in origin and were originally received from the Montana Historical Society. LC-01 consists of burial items dug from a burial near Birdseye; ML-02 is string of beads found near Musselshell and Roundup area; and UN-01 are artifacts of an unknown origin removed from the grave of a child. Board discussion on whether the head of the First Peoples Buffalo Jump State Park at Ulm Pishkin is willing to allow the Board to reinter remains and burial items at Ulm Pishkin. Without knowing the individual's history, the board discussed that it is best to rebury them all together (for practical reasons and to consider whether Ulm Pishkin might have a place). Board discussion on taking pictures of items to respective tribes to discuss with tribal cultural leaders to determine if the artifacts can be identified to make an appropriate decision with the respective elders of the tribes. In the alternative, there might be one setting for reinterment of all artifacts if the State Park management for Ulm Pishkin will agree to allow the Board to reinter remains at Ulm Pishkin. **Action item:** Jessica to send photos and information of the three cases to Board and all board members look at photos and share the photos to tribal cultural committee for interpretation. **MOTION:** Scheuring motions for Terri to contact First Peoples Buffalo Jump State Park to see if they are willing to accept items from Burial Board. Seconded by Livoti. No questions. Motion carried unanimously.
- c. Discussion on Case **LC-02**. Jessica reports this is a skull labeled as belonging to John Keene, the first to be hung from Hanging Tree in Helena. Keene's remains were removed from the original burial place to Benton Ave Cemetery. The Cemetery has no markers or records and does not know where he is in the cemetery. Reuniting the skull with the body is impossible. Presently, only cremated remains are allowed at Benton Ave Cemetery, and they will take the skull if cremated. Andy LeBrun discussed that as a Coroner, this skull cannot be cremated without 100% verification of identity (Jessica

puts this at 70%) and permission from family. There are other solutions such as policy and practice for indigent deaths. A solution must be found to find a cemetery for this skull and the fees for an indigent burial. **ACTION ITEM:** LeBrun will check options for indigent burial of skull and get back to Board on cemetery options.

- d. Discussion on Case **UN-09**. Gilham updated the Board on the skull from Bear Gulch which is at the SHPO. Blackfeet Tribe believes it to be Crow, not Blackfeet. **ACTION ITEMS:** Jessica to give Gilham Aaron Brian's email and Gilham to reach out to John Murray and Aaron Brian to discuss what they want to do. It should be easy to get to reburial once they get a plan.
- e. Discussion on Case **UN-10**. Scheuring updated that she learned from Amanda at the Leech Lake Reservation in Minnesota, that this is the 5th case for the tribe, all similar to the Burial Board case. They are willing to take the case and skull, but currently, there is no action plan.
- f. Discussion on Case **UN-12**. Jessica updated that this is an unidentified human skull from the Montana Historical Society that came from an unnamed 3rd party. It is possibly Native American and possibly Montanan, but first needs a physical analysis. Meredith Snow at UM is willing to conduct that physical analysis. **ACTION ITEM:** transfer the skull to the care of UM shortly and then update the Board on their analysis.
- g. Discussion on Cases **UN-02/UN-03/UN-04/UN-05/UN-06/UN-07/UN-11**. These are scalp locks. Chair Fisher discusses that it is appropriate to treat these as human remains. Jessica reports she has only tidbits of information on the origins of the scalps. UN-11 is likely a Caucasian woman, as is UN-7 (found in Bear Gulch next to UN-09, an indigenous woman). UN-5 is likely Blackfeet and UN-4 is believed to be Piegan. There is no information on UN-3, and it is attached to a stick. UN-2 is in a corn husk bag and likely Nez Perce. **ACTION ITEMS:** Board to take pictures for the THPO's, tribal elders, and cultural resource committees to review these and decide the best action to take and to discuss feelings on scalps as maybe some do not want these returned because of certain powers. With respect to the non-Indian scalps, LeBrun to follow up on how to process body parts. Jessica to send information on contact information for corn husk bag and scalp. Tabled until next meeting when there is more tribal representation on Board.

6. Proposed Case Review Protocol Presentation.

Scheuring suggested that when Board Members know they cannot attend a meeting, that they contact the SHPO with a status report on active cases so the Board can move forward on cases. Gilham suggested creating an active shared Google Drive with all the cases and updates with what case is open, information surrounding it, so they can have a live document shared by all. **Action Item:** Gilham to create a shared Google Drive document and Jessica and Scheuring to

put in substance. If a Board Member cannot make a meeting, they are asked to send any case updates they have to Jessica.

6. Meetings are currently per statute 2 times per year, May and October with an option for in-person and remote. Given how many open cases the Board has, Scheuring suggested adding two additional meetings per year. Gilham suggested two additional meetings, one in August and February by Zoom with only two hours to focus on the Board's caseload. The Board needs representation from every tribe and staff. It is time to fill the vacant spots. Askan supported two additional meetings per year by Zoom with updates and he hopes to get additional help from representatives from his tribe, especially with reinterment. Reid is open to additional meetings by Zoom to address the current workload. LeBrun acknowledged that additional meetings are a good thing by Zoom. Blackwolf agreed. Livoti suggested meeting quarterly with August next. UM Professor Meredith Snow wants to give a Zoom presentation to Board on a new, less invasive DNA analysis and discuss how UM can assist with cases. **ACTION ITEM:** Board meetings will continue with May and October with in-person and remote attendance options. Two additional two-hour Zoom meetings will be held in summer and winter with dates TBD and Terri will poll the Board to choose additional dates. The first summer remote meeting will be coordinated with timing for Professor Snow presenting. Future additional meetings will be solely for case review.
7. Reid reported that in the future, Aaron Brian, the Crow TPO, will join the Board.
8. **MOTION:** Black Wolf motioned to adjourn the meeting. Gilham seconded. No questions. Motion carried unanimously.

Adjournment at 2:30 pm