

**Statement of**  
**W. Donald Duckworth, Ph.D., President and CEO**  
**Bishop Museum, Honolulu, Hawai`i**  
on the Native American Graves Protection and Repatriation Act  
U.S. Senate Committee on Indian Affairs, Washington, D.C.  
July 25, 2000

Mr. Chairman and members of the Committee: I am W. Donald Duckworth, Ph.D., President and CEO of the Bishop Museum in Honolulu, Hawai`i, presenting testimony on behalf of my institution.

On April 20, 1999, I presented testimony to this distinguished committee on the experiences of Bishop Museum as it worked to fulfill both the letter and spirit of the Native American Graves Protection and Repatriation Act (NAGPRA). Since that testimony, we have continued our work and have also continued to benefit from collaborations with Native Hawaiian elders and cultural experts. We have enjoyed a long and productive working relationship with the National Park Service (NPS) staff that administered NAGPRA and have received grants from NPS, for which we are most grateful in that they have helped us significantly in achieving our obligations under NAGPRA. During the past few months, however, Bishop Museum's experiences with the NPS have raised concerns regarding the appropriateness of continuing to administer NAGPRA at the Archaeology and Ethnology Program at the NPS. I would like to comment on the current situation and on those experiences.

The Museum is currently facilitating the NAGPRA-related repatriation of human remains and funerary objects removed from a cave complex in Kawaihae District on Hawai`i Island. The Hawai`i Volcanoes National Park, which is under NPS jurisdiction, is in possession and control of objects from this same cave complex. The Hawai`i Volcanoes National Park is not facilitating NAGPRA-related repatriation of these items.

The conflict of interest in this case is very clear. Bishop Museum has tried, in good faith, to work out solutions in a highly charged emotional context. NAGPRA has provided the Museum with opportunities to collaborate with Native Hawaiians and Bishop Museum has, often with great difficulty, reached solutions that truly reflect the collaborative spirit of NAGPRA. We are dismayed that NPS staff associated with the Archaeology and Ethnology Program are interfering with this collaboration and instead, are attempting in strong terms to influence decision making between the Museum and the claimants. Not only are NPS staff faxing official letters to the media, they are creating an atmosphere of suspicion and ill will. It also appears from the tenor of NPS letters sent to Bishop Museum from its National Center for Cultural Resource Stewardship and Partnerships that NPS has predetermined that a civil penalty proceeding against the Museum will be instituted. Background information and examples follow.

The circumstances of the Museum's receipt of the Kawaihae cave human remains and objects are important. In 1905, three men, exploring caves in search of burial treasures,

discovered a cave in Kawaihae with the remains of a chief and others, and objects that were wrapped and placed with the remains. The three men, who entered the chief's burial cave and removed the objects and some of the remains, drew straws to divide their bounty three ways. Two of the men sold and traded their shares to Bishop Museum in 1907. The third man kept his share. In 1956, some time after his death, his family donated his share of the objects to the Hawai'i Volcanoes National Park, where they reside to this day.

This past February, the Museum, in good faith, made a loan of the objects to one of the claimants, Hui Mālama I Na Kūpuna O Hawai'i Nei, to facilitate the process of consultation. The Office of Hawaiian Affairs alleged that the loan to Hui Mālama was in violation of NAGPRA and requested that the NPS institute a civil penalty proceeding. In a letter sent from Director Robert Stanton's office on April 7<sup>th</sup>, the Museum was informed of OHA's allegation and invited to respond in writing to three questions to assist NPS in evaluating OHA's allegations. We feel that Director Stanton's letter was in order and we are grateful we were afforded the opportunity to respond. Interestingly, we also received a telephone call on May 8<sup>th</sup> made by the NPS Consulting Archaeologist at 11:04 p.m. Washington D.C. time inquiring whether we had received Director Stanton's letter and whether we intended to respond. The Museum responded to Director Stanton's requests on May 12<sup>th</sup>, providing answers to the three questions and attaching additional information and documents as suggested.

Subsequently, two other letters were received from the NPS. One was dated April 13<sup>th</sup> and the other June 2<sup>nd</sup>. Katherine H. Stevenson, Associate Director, sent the letters from the NPS National Center for Cultural Resource Stewardship and Partnerships.

The letter of April 13<sup>th</sup> included the following statement: "I hope you will take every possible step to recover and take back into direct care by the Museum any artifacts that may be covered by NAGPRA that may have been given to other organizations with [sic] following the proper procedures required by NAGPRA." We found this statement inappropriate in that it interferes with the decision making process between the Museum and the claimants and that it infers that NPS has predetermined that a civil penalty proceeding would be instituted. The Museum responded in a letter dated May 13<sup>th</sup> requesting clarification of this statement. Clarification was provided in the letter dated June 2<sup>nd</sup>, signed for Katherine Stevenson, and faxed to the Museum on June 7<sup>th</sup>.

The letter of June 2<sup>nd</sup> was faxed to the two Honolulu dailies, the *Honolulu Advertiser* and the *Honolulu Star Bulletin*, on the same day the Museum received them (June 7<sup>th</sup>). We were provided copies of those faxes by one of the reporters. The source of the fax to the two Honolulu newspapers was the Honolulu NPS office, which also faxed to one of our staff (not involved in NAGPRA) copies of correspondence between our NAGPRA project manager and a claimant.

The June 2<sup>nd</sup> letter from NPS included the following statements:

- "I hope you are able to take action to assert the direct control the museum has over the security and safety of the objects."
- "As you are aware, until repatriation, it is your museum's responsibility to ensure

- that the objects are preserved and protected against all threats.”
- “As long as the objects are out of your possession, the objects, which would be worth millions of dollars on the black market, are subject to a substantial threat of theft. Whether the objects are in a cave, as reported, or elsewhere, they are also threatened by damage by insects, humidity and other natural factors.”

The statements are inappropriate in that they interfere with the Museum-claimant consultation process and infer that NPS has predetermined that a civil penalty proceeding will be instituted. The letter also indicated that our response of May 13<sup>th</sup> to Director Stanton on the civil penalty proceedings was not received by the National Center for Cultural Resource Stewardship and Partnerships.

The NPS letter of June 2<sup>nd</sup> was quoted liberally by the Honolulu newspapers, and included the statement regarding the monetary worth of the objects. We feel that it was inappropriate for the NPS to send this letter to the media and thus compromise the security of the objects with statements regarding their worth. We also feel that it was inappropriate for NPS to assume that the monetary worth of the objects and the maintenance of museum-quality environmental controls were, in this case, more important than the spiritual significance and ceremonial context of the objects. Finally, we are concerned whether the placement of such high monetary value over these objects is influencing NPS decisions regarding other NAGPRA-related objects within their control.

It seems Bishop Museum has been the subject of such keen scrutiny by staff of the Archaeology and Ethnology Program of NPS because the NPS is in possession and control of the remaining third of the objects removed from the Kawaihae burial cave in 1905. These objects, as noted above, are stored in a repository located at the Hawai'i Volcanoes National Park, over which NPS has jurisdiction. Although we have also enjoyed a long and productive working relationship with the Honolulu NPS office, we are dismayed with the actions of the archaeologist assigned to that office. It is well known in Honolulu that the NPS Pacific Islands Support Office archaeologist continues to support one of the potential claimants, because that claimant is questioning the status of the objects as burial related, or even as NAGPRA-related. We understand furthermore, that NPS has not responded to claims for the objects made some time ago by Hui Mālama, the Department of Hawaiian Home Lands, and the Hawai'i Island Burial Council. Although the administration of NAGPRA seems to have been transferred to new NPS staff, the academic biases of archaeology and ethnology remain the same.

In closing, we reiterate our commitment to fulfilling the spirit and intent of NAGPRA and we stand by our belief that the resulting levels of collaboration that Museums have enjoyed with Native Americans and Native Hawaiians as a result of NAGPRA has been most valuable and important. We support any effort made by this distinguished committee to ensure that the NAGPRA program is administered with objectivity, cultural sensitivity, and in keeping with the spirit and intent of the Act.

Thank you for the opportunity to testify on this issue. I would be happy to respond to any questions you might have.