

ADDRESSES: Room 312, National Building Museum, 5th and F Streets, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Young, Secretary to the Commission, (202) 619-7097.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 99-652, the Commemorative Works Act (40 U.S.C. Chapter 89 *et seq.*), to advise the Secretary of the Interior (the Secretary) and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorial in Washington, DC, and its environs.

The members of the Commission are as follows:

Director, National Park Service.
Chairman, National Capital Planning Commission.
Architect of the Capitol.
Chairman, American Battle Monuments Commission.
Chairman, Commission of Fine Arts.
Mayor of the District of Columbia.
Administrator, General Services Administration.
Secretary of Defense.

Dated: November 17, 2003.

Joseph M. Lawler,

Regional Director, National Capital Region.

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DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: U.S. Department of Justice, Federal Bureau of Investigation, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.8 (f), of the intent to repatriate a cultural item in the possession of the U.S. Department of

Justice, Federal Bureau of Investigation, San Francisco, CA, that meets the definition of sacred 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 within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations within this notice.

The cultural item is a braided scalp with a decorative covering of red wool and contrasting blue wool cross.

In 1876, Corporal William O. Taylor acquired the scalp under unknown circumstances while serving as a member of General George A. Custer's Sioux Expedition. The scalp was subsequently acquired by Mr. Alexander Acevedo. On April 4, 1995, Butterfield and Butterfield Auction House, San Francisco, CA, held a sale of items under Mr. Acevedo's control. The estimated sale price of the scalp was listed in the auction catalog as between \$3,000 and \$4,000. On May 5, 1995, the scalp was sold to Ripley's Entertainment, Orlando, FL, for \$7,150.

Accompanying the scalp in the auction catalog was a pipe tomahawk, also acquired by Corporal Taylor in 1876. A faded label attached to the pipe tomahawk reads, "A Black Hills Indian Tomahawk and Pipe/Captured by ... he was ... killed ... and scalped the ... 35 years ... August 19, 1876." The auction catalog listed the battle of Slim Buttes as the source of the pipe tomahawk. It is believed that Corporal Taylor acquired the scalp and the pipe tomahawk after the battle of Slim Buttes. The pipe tomahawk is not considered to be subject to repatriation under NAGPRA.

On April 3, 1996, at the request of the United States Attorney's Office for the Northern District of California, the Federal Bureau of Investigation, San Francisco, CA, began an investigation into the trafficking of Native American scalps by Butterfield and Butterfield Auction House. On July 19, 1996, Ripley's Entertainment released custody of the scalp to Federal Bureau of Investigation agents. The scalp was sent to the Federal Bureau of Investigation, Laboratory Division, Hair and Fiber Section, Washington, DC, for examination. Based on morphological characteristics, the Federal Bureau of Investigation determined that the hair on the scalp exhibits mongoloid characteristics, a classification that encompasses Native American hair.

Historic records indicate that the battle of Slim Buttes occurred on September 9-10, 1876, when forces led by Captain Anson Mills encountered a village of about 37 Minniconjou lodges. The battle was soon joined by warriors from nearby Sans Arc, Brule, and Cheyenne camps. Lakota oral tradition indicates that all of the tribal participants in the battle of Slim Buttes belonged to the Mnikoju (Minniconjou) and Itazipco (Sans Arc) bands. Descendants of the Mnikoju (Minniconjou) and Itazipco (Sans Arc) bands that participated in the battle of Slim Buttes are included in the present-day Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.

In 1994, representatives of Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; and Santee Sioux Tribe of the Santee Reservation of Nebraska signed a memorandum of agreement that authorized representatives of any of the signatory tribes to speak on behalf of all five Indian tribes.

In 2002, a representative of the signatory tribes reviewed the information pertaining to the scalp and concluded that the scalp was a war trophy taken by one of the Mnikoju (Minniconjou) or Itazipco (Sans Arc) warriors from one of their traditional enemies, possibly the Arikara, Pawnee, or Crow. The representative of the signatory tribes identified the scalp as innately sacred. Among the Lakota, scalping is a way of showing contempt for an enemy's prowess in war. The Iwa'kiciwacipi, or scalp dance, was performed to punish the individual from whom the scalp was taken.

Another ceremony must be performed after a period of time in order to release the captured spirit of the individual from whom the scalp was taken. The representative of the signatory tribes has requested that the scalp be returned in order to perform the spirit-releasing ceremony. The representative of the signatory tribes also indicated that the signatory tribes do not intend to preclude repatriation of the scalp to any other federally recognized Indian tribe. The signatory tribes will immediately withdraw their request at any time that any federally recognized Indian tribe submits a competing claim to repatriate the scalp.

Officials of the Federal Bureau of Investigation, San Francisco, CA, have determined that, pursuant to 25 U.S.C.