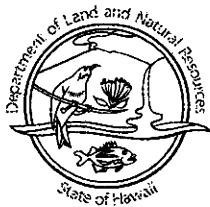


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING, ROOM 555  
601 KAMOKILA BOULEVARD  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**AGENDA**

**MOLOKA'I ISLAND BURIAL COUNCIL MEETING**

**DATE: WEDNESDAY, JUNE 18, 2003**  
**TIME: 10:00AM – 12:00PM**  
**PLACE: QUEEN LILI'UOKALANI CHILDREN'S CENTER**  
**LILI'UOKALANI TRUST**  
**MOLOKA'I OFFICE, MAUNALOA HIGHWAY**  
**KALAMAULA, MOLOKA'I**

**I. OPENING REMARKS**

**A. ELECTION OF CHAIR AND VICE-CHAIR**

**II. MINUTES**

- **APPROVAL OF APRIL 16, 2003 MEETING MINUTES**

**III. BUSINESS**

**A. FIBER OPTIC LINE AT KALAUPAPA SETTLEMENT**

**Information/Recommendation:** Section 106 Consultation by the National Park Service.

**B. PU'U ALI'I FENCING PROJECT**

**Information/Recommendation:** Presentation by National Park Service for upcoming project.

**C. TRAINING SESSION FOR COMMISSIONERS**

**IV. CASE UPDATES**

**Information / Recommendation:** Status updates.

**V. ANNOUNCEMENTS**

**VI. ADJOURNMENT**

Pursuant to §92-3, HRS, all interested persons shall be afforded an opportunity to present oral testimony or submit data, views, or arguments, in writing on any agenda item. A request to be placed on a burial council meeting agenda must be made with the Burial Sites Program staff at least two weeks preceding the scheduled meeting date. In addition, the request must be accompanied by all related documentation. Failure to comply with this procedure will delay your item to the following month's agenda.

Materials related to items on the agenda are available for review at the State Historic Preservation Division at 555 Kakuhihewa Building, 601 Kamokila Boulevard, Kapolei, Hawai`i 96707, and will also be available at the meeting. Disabled persons requiring special assistance should contact our office in advance at (Kaua`i) 274-3141, (Maui) 984-2400, (Hawai`i) 974-4000, (Moloka`i & Lana`i) 1-800-GOV-INHI, or 587-0010.

To view the agenda online, go to <http://www.state.hi.us/dlnr/hpd/bcagenda.htm> The agenda is posted six days prior to the scheduled meeting.

LINDA LINGLE  
GOVERNOR OF HAWAII

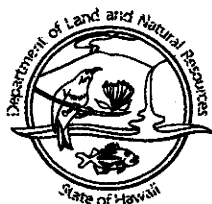


PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING, ROOM 555  
601 KAMOKILA BOULEVARD  
KAPOLEI, HAWAII 96707

**MINUTES**

**MOLOKA'I ISLAND BURIAL COUNCIL MEETING**

**DATE: WEDNESDAY, JUNE 18, 2003**  
**TIME: 10:00 A.M. – 12:00 P.M.**  
**PLACE: QUEEN LILIUOKALANI CHILDREN'S CENTER**  
**LILIUOKALANI TRUST – FAMILY ROOM**  
**MOLOKA'I OFFICE, MAUNALOA HIGHWAY**  
**KALAMAULA, MOLOKA'I**

**ATTENDANCE:**

**MEMBERS:**

Lawrence Aki, Chair  
Roxanne French, Vice-Chair  
Louella Opu'ulani Albino  
Pearl Hodgins  
Pilipo Solatario

**STAFF:**

Kai Markell, Burials Program Director  
Mary Carney Perzinski, Historic Preservation Specialist  
James Paige, Deputy Attorney General

**GUESTS:**

Jennifer Cerny  
Mahealani Davis  
Halealoha Ayau

**ABSENT:**

Robert Alcain  
Wayde Lec  
Nannette Napoleon  
Lance "Kip" Dunbar

**I. OPENING REMARKS**

Councilmember Pearl Hodgins (Hodgins) opens meeting at 10:30 AM. A pule is offered by Louella Opu'ulani Albino (Albino).

**A. ELECTION OF CHAIR AND VICE-CHAIR**

*A motion is made to elect Lawrence Aki as Chairman of the Moloka'i Island Burial Council. (Solatario/French)*

**VOTE: ALL IN FAVOR.**

*A motion is made to elect Roxanne French for Vice-Chair for the Moloka'i Island Burial Council. (Hodgins/Albino)*

**VOTE: ALL IN FAVOR.**

**II. APPROVAL OF APRIL 16, 2003 MEETING MINUTES**

*A motion is made to accept the April 16, 2003 Moloka'i Island Burial Council meeting minutes. (French/Solatario).*

**VOTE: ALL IN FAVOR.**

**III. BUSINESS**

**A. FIBER OPTIC LINE AT KALAUPAPA SETTLEMENT**

**Information/Recommendation:** Section 106 consultation by the National Park Service.

Jennifer Cerny (Cerny), of the National Park Service, says that she has been at Kalaupapa for 3 years and has been involved with Kalaupapa since 1998. Cerny is the Chief of Cultural Resources Management. Cerny is working on bringing the Section 106 consultation process up to speed, which is required by the National Preservation Act.

The fiber optic cable project is to upgrade the lines and make extensions to additional buildings in Kalaupapa. Cerny shows the Council the plans and the shaded areas indicate no previous disturbance and are the areas of concern. In 1985, Somers, the Park Service archaeologist, conducted a surface survey of the settlement and there were no surface evidence of pre-western contact archaeological sites or features. During waterline excavations, monitored by Somers, no subsurface materials were found. Somers was surprised that the area was devoid of subsurface features.

The fiber optics project excavations will be monitored by Cerny. Encountering burials within the town area is unlikely. Burials are more likely to be found in the sand dunes in the coastal areas near the airport.

Cerny outlines the steps to be taken in case burials are encountered. All excavations would be stopped once the iwi were determined to be human. Immediate measures would

be taken to recover the disturbed items to protect them. The notification process would begin immediately which would include the Molokai Island Burial Council, Pacific Islands Board archaeologist, and State archaeologist for Moloka'i, Sara Collins.

Councilmember Albino asks about the previous archaeological studies within Kalaupapa town.

Cerny says that the initial survey was done in 1985 by Harry Somers. From 1992 to 1996, Neller monitored other projects within Kalaupapa Settlement. Cerny says that the intention of the National Park Service is to leave any burials in place without any osteological or archaeological analysis.

Councilmember Roxanne French (French) requests a letter detailing preservation in place of any human burial encountered during the fiber optics project.

Halealoha Ayau (Ayau) asks if the land is owned or leased by the National Park Service.

Cerny says that it is under the Department of Hawaiian Homelands.

Ayau recommends a native Hawaiian cultural monitor from the Kalaupapa community to monitor the excavations as well as the archaeologist. Ayau also requests that if any remains are encountered, they shall be kept covered. If there is any need for dispute resolution, it should include the Kalaupapa community.

Kai Markell suggests describing burial separately and not including them in the cultural deposits discussion in the undertaking plan.

***A motion is made to have staff write a letter to Jennifer Cerny of the National Park Service regarding the Molokai Island Burial Council's recommendations and concerns made during today's discussion.***  
(French/Hodgins)

**VOTE: ALL IN FAVOR.**

Lawrence Aki (Aki) says that lineal and cultural descent is important and suggests that National Parks research their documentation to identify any burials.

Cerny says that National Parks does have records and cemetery locations of the persons inflicted with Hanson's Disease who were brought to Kalaupapa. If pre-historic burials are found during the project Cerny shall notify everybody because the Park doesn't have descendency records for pre-historic native Hawaiian burials.

Ayau requests that the National Park Service put a notice in the newspapers soliciting lineal descendent claims before burials are found.

*Tape 1, Side B*

Cerny says she is willing to publish a notice in the newspaper as a **proactive way of identifying descendents.**

Aki suggests incorporating Ayau's suggestion into the letter from staff.

**B. PU'U ALI'I FENCING PROJECT**

**Information/Recommendation:** Presentation by National Park Service on upcoming project.

Jennifer Cerny (Cerny) of the National Park Service says that this **upcoming project** is located on Pu'ulani'i Plateau on a 1300 acre area reserve. This is a **natural resource management project.** The goal is to fence the area to protect **rare plants, rare birds, and rare snails.** Phase I is for the fenceline project. In November, **Cerny walked the route of the proposed fenceline and did not observe any surface archaeological features.** Cerny says that there could be sites of cultural significance present that **she couldn't identify and requests the Council's input.** The fenceline will consist of T-posts, **which will be at a depth of no more than 2 feet.** Gates will be installed at various locations **so the public can still use the area.** No bulldozers will be used. **Brush clearing will occur by hand.**

Opu'ulani Albino (Albino) is concerned about the excavations for the **fence posts.**

Cerny says the T-posts are narrow and no digging will occur, but if **items are impacted,** nobody will know.

Lawrence Aki (Aki) recommends that if any burials are discovered, **the project will halt** and the Burial Council will be notified immediately. Aki says that **burials could be found** anywhere on the island.

***A motion is made to send Jennifer Cerny of the National Park Service a letter identifying the concerns of the Moloka'i Island Burial Council. (Albino/Solatario)***

**VOTE: ALL IN FAVOR.**

Cerny says she will return to the Council to present the formal plan for **this project at a later date.**

Aki calls for a 5-minute recess.

**C. TRAINING SESSION FOR COMMISSIONERS**

Aki reconvenes meeting at 11:45 AM.

Kai Markell (Markell) says that this informational session is just to refresh the Council on the burial administrative rules. The Department is currently responding to the audit.

Aki says that the Council needs a copy of the administrative rules.

Markell says the burial administrative rules were adopted in 1998.

Mary Perzinski (Perzinski) says that Holly McEldowney, the acting administrator of the State Historic Preservation Division said that the administrative rules are expected to be signed by the Governor on July 18<sup>th</sup>.

Markell gives the Council a copy of Chapter 6E 43.5 Establishment of the Councils. Section F refers to the primary responsibilities of the Councils. Previously known burials are under the jurisdiction of the Council. Inadvertent burials are under the jurisdiction of the Department, but the Council can be included in the decision making process. Preservation in place or relocation of inadvertent burials needs to be decided within 2 days.

James Paige (Paige), the Deputy Attorney General, says that Council site visits must comply with the Sunshine Law, unless the Council designates certain Council members comprised of less than a quorum to attend site visits. The Sunshine Law requires a six day notice if the whole Council wants to attend a site visit.

Halealoha Eddie Ayau (Ayau) says that an archaeological survey is to try to identify any archaeological sites on the property including unmarked Hawaiian burials. If the burials are found during the inventory survey, then the burials are considered previously identified and the burials disposition would be under the Burial Council's purview. Ayau says that problems arise when an inventory survey is incomplete or not conducted thoroughly. If burials are found during the course of construction, after the inventory survey has been done or if an inventory survey wasn't required by the State Historic Preservation Division, the burials are considered inadvertent and are under the jurisdiction of the Department. This occurred on the Wal-Mart site on O'ahu and during the Hokulia project on Hawaii Island. The judge for the Hokulia case ruled that the inventory survey was inadequate and all of the inadvertent burials found should have been found during the inventory survey.

Paige says that because this is a recorded meeting, he has to disclose that he is the attorney representing the State on the Wal-Mart case. He is taking no position on Ayau's comments.

Roxanne French (French) says there is a difference between developers and private land owners. French says that private landowners are not required to have archaeological studies done as often as large developments, such as in the case of Mapulehu which is owned by a private landowner. An archaeological study wasn't required for Mapulehu, but it was known that burials were on the property.

Markell says that the Councils are set up to take testimony from families to help identify unmarked burials. Mapulehu is now, arguably, a previously identified burial site. Markell says that the Department doesn't want to make decisions on the disposition of multiple burials and cemeteries; those cases should go to the Councils.

*Tape 2, Side A*

Markell says that the Council's role is to assist the Department in the inventory and identification of Native Hawaiian burial sites. Once the burial sites are identified, then the State can inform the landowner. Another role of the Council is to make recommendations regarding the appropriate management, treatment and protection of native Hawaiian burial sites. Another responsibility of the Council is to maintain a list of appropriate native Hawaiian organizations, but there are no set rules on recognizing groups.

Markell says that staff and the Attorney General are present to assist the Councils interpret the laws. Some recent court rulings are helping clarify the rules and laws. Preservation in place is always the preferred disposition, and there are preservation criteria, such as a concentration, or they are associated with an important historical event. These same criteria apply to inadvertent or previously identified burials.

#### IV. CASE UPDATES

**Information/Recommendation:** Status updates.

##### Mapulehu

Pearl Hodgins (Hodgins) says that she hadn't heard anything about the taking over of Mapulehu by a private group.

Markell says that the owner is still Nene O Molokai if no land transfer has been made. Clause Gardner acquired the property and at some point donated it to Nene O Molokai. Markell says a letter has been written, but may not have been sent yet, to Arleone Young, the director of Nene O Molokai, requesting permission to reinter the iwi that were removed. Markell will find out the ownership of the parcel.

##### Staff Changes and Status of Burial Sites Program

Markell says that Don Hibbard retired in December, Holly McEldowney is the acting administrator. The Department has advertised for a permanent position for the SHPD administrator. Nathan Napoka is coming back as the branch chief of History and Culture. No more funding is expected.

Ayau says that a summit is being planned through Senator Inouye's office to address the needs of the Burial Sites Program. Ayau says that he was asked to participate in the planning process, but just recently learned that the staff of the Burial Sites Program has not been included in the discussion. One of Ayau's suggestions is to hire more staff; two archaeologists are assigned to each island and only four people handle all of the burials in



the State. The summit is to try to streamline the Program and improve the Program. The amount of cases is overwhelming. The Burial Councils are at the same level of the Land Board and any State Commission, therefore the same resources should be made available to them.

The Burial Sites Program has been working on the vacancies of the Councils and compiling a list of names to be submitted to the Governor for appointment. The Governor wants a choice for each vacancy. Robert Alcain's term expires June 30, 2003, but is eligible to stay on until he is reappointed or someone else is appointed.

Aki says that he would support Edward Ayau's appointment for the Molokai Island Burial Council.

Ayau says that Hui Malama should be consulted for names to be submitted for the Burial Council vacancies.

Markell says the Burial Council, as a native Hawaiian organization, can submit names as well.

*Tape 2, Side B*

#### V. ANNOUNCEMENTS

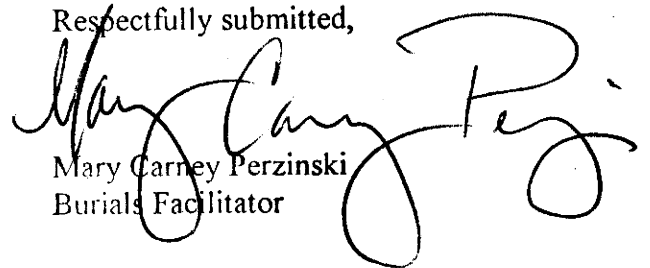
Roxanne French says that Mapulehu needs to be resolved. French requests Mapulehu be on the agenda at the next meeting and Hanapi should be present, because he is taking care of the iwi.

Aki says that a burial plan was brought to the Council 2 or 3 years ago. The Burial Council at that time decided not to accept the proposal of the burial plan, because they wanted the State to take a more active role in the process.

#### VI. ADJOURNMENT

The meeting is adjourned at 12:34 PM.

Respectfully submitted,



Mary Carney Perzinski  
Burials Facilitator