

**CHEYENNE RIVER SIOUX
PRESERVATION OFFICE**
P.O. BOX 590
EAGLE BUTTE, SOUTH DAKOTA
Telephone# 605-964-7554



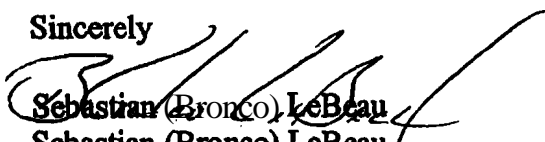
February 3, 1999

TO: Tribal Council
FR: Bronco **LeBeau**, Preservation Officer

RE: Proposed amendment to **Ordinance No. 57(a)** and the proposed regulations for the Cultural Resources Protection Act

Ladies and Gentlemen of the CRST Tribal Council; Honorable Tribal Chairman; Madam Secretary. The Cultural Preservation Officer has drafted a proposed amendment to Ordinance No. **57(a) and regulations** for the Cultural Resources Protection **Act** of the Cheyenne River Sioux Tribe. **On** Monday February **1, 1999** during the CRST **WoLakota** Committee meeting these proposals **were** presented and discussed in committee. A motion with a second **was** made to approve of the proposed amendment **and** the regulations. I am providing for your review and consideration copies of the two drafts **and** I am requesting that the full CRST Tribal Council now review the two drafts and duly adopt them **during** the **regular** session for February **1999**.

Sincerely


Sebastian (Bronco) LeBeau
Sebastian (Bronco) LeBeau
Preservation Officer

cc.
Tribal Council

What does Amendment (b) for Ordinance No. 57(a) do?

Amendment (b) amends Ordinance No. 57(a). Between January of 1995 to January of 1999 the Cultural Preservation Office has expanded and grown into its own functioning tribal program. Its duties and responsibilities have increased to include, preservation, repatriation, THPO responsibilities and archives. Amendment (b) if it is passed by the tribal council further defines the tribes Cultural Resources Protection Act and recognizes the expanded duties and responsibilities of the Cultural Preservation Office and its assumption of SHPO responsibilities from the State of South Dakota and the administering of the tribal archives.

NOTES

AMENDMENT (b)
for Ordinance NO. 57(a)

To amend **Ordinance** No. 57(a) to make improvements to the Cultural Resources Protection Act of the Cheyenne River Sioux Tribe.

SECTION 1. Short Title; References.

(a) **SHORT TITLE**— this amendment may be cited as “**Ordinance #57(a) Amendment (b)**”.

SECTION 2. Findings.

There are no amendments to the section.

SECTION 3. Policy.

Part (d)—

(1) is amended by striking “**Mandate**” and inserting “*Encourage*”.

SECTION 4. Definitions.

There are no amendments to the section.

SECTION 5. Cultural Preservation Office.

Part (a)—

(1) by adding the following new sub-part:

“(i) *The Cultural Preservation Officer will supervise all assigned personnel to the Office.*”; and

(2) by adding the following new sub-part:

“(ii) *Duties of the Cultural Preservation Officer— are those duties as they are defined in the regulations for the Cultural Resources Protection Act pertaining to ‘Preservation’ and ‘Repatriation’ activities and responsibilities undertaken on behalf of the Cheyenne River Sioux Tribe.*”.

Part (b)—

(1) by striking “shall also be” and inserting “is”;

(2) by adding the following new sub-part:

“(i) *The Cultural Preservation Office is responsible for managing the ‘Tribal Archives’. The ‘Archives’ can be utilized as a temporary holding facility for the human remains and cultural items repatriated to the tribe. The ‘policy and procedures’ for accessioning, recording, storing, preserving, and curating all tribal records and documents will be developed and implemented by the ‘Tribal Archivist’ in coordination with the Tribal Secretary Office, the Central Records Department, and the CRST Administration.*”;

(3) by adding the following new sub-part:

: “(ii) *Duties of the Tribal Archivist— we those duties as they are assigned by the Tribal Secretary pertaining to ‘Archival Practices’, ‘Preservation’ and ‘Repatriation’.*”; and

Section 5 of the Historic Preservation Act of the Cheyenne River Sioux Tribe is **further amended by inserting** the following new Part:

(1) "(d) The **Office** is responsible for the administration of all '**Tribal** Historic Preservation **Officer**' duties and responsibilities that are assumed under the 'National Historic Preservation Act' by the Cheyenne River Sioux **Tribe**. The Cultural Preservation **Officer** by tribal resolution, Resolution No. **4a-98-CR**, is the '**THPO**' designee for the tribe until at such time the, CRIT Tribal Council, by resolution designates a **different** individual. The '**THPO**' is authorized to issue all necessary tribal permits as **defined** in Section 7 of Ordinance **#57(a)** and in Ordinance **#57(a)** Amendment **(b)**."; and

(2) "Part **(d)**— by adding the following new sub-part:

"(i) duties of the '**THPO**'— are those duties as they are **defined** in the regulations for the Cultural Resources Protection Act pertaining to 'Preservation' and '**Repatriation**' activities and responsibilities managed by the Cultural Preservation **Office** on **behalf** of the Cheyenne River Sioux **Tribe**."

SECTION 6. Cheyenne River Sioux Museum.

Paragraph—

(1) by striking the entire second sentence in the paragraph.

SECTION 7. Tribal Work Permits for the surveying and examination of Historical, Archaeological and Paleontological Sites; Gathering of Objects; Regulation.

Part (a)---

- (1) by striking "**Topographical**";
- (2) by inserting a period after "**Cultural Preservation Officer**";
- (3) by striking the remainder of the sentence; and
- (4) by **inserting** the following sentence "**Survey Permits** may also be issued by the CRST '**THPO**'."

Part (b)---

- (1) by striking the period after "**Cultural Preservation Officer**" and inserting "**and/or the CRST 'THPO'**";
- (2) by striking "**Officer**" from the third sentence and inserting "**Office**";
- (3) by inserting after Cultural Preservation **Officer** in (1) "**and/or CRST 'THPO'**"; and
- (4) by adding the following new sub-part:

"(i) **Tribal Exhumation Permits** for grave sites will be issued under this **section** of the Act but only in conjunction with the **permittee** receiving **Tribal Council approval to exhume a identified** grave site."

Part (c)---

- (1) by striking the period after Cultural Preservation **Officer** and **inserting** "**and/or the CRST 'THPO'**";
- (2) by **striking** "**Officer**" from the third sentence and inserting "**Office**"; and

(3) by inserting after Cultural Preservation Officer in (1) "*and/or the CRST 'THPO'*".

SECTION 8. Suspension and Revocation of Permits.

Part (a)—

(1) by inserting after Cultural Preservation Officer in the first, second and third sentence "*and/or the CRST 'THPO'*".

Part (b)—

(1) by inserting after Cultural Preservation Officer "*and/or the CRST 'THPO'*".

Part (c)—

(1) by inserting after Cultural Preservation Officer "*and/or the CRST 'THPO'*".

SECTION 9. Unregulated Examination and Collection Prohibited.

Part (a)—

(1) by adding the following new sub-part:

"(1) Penalties —

*"(1) If the **commercial** or **cultural value** of the resources **involved** and the cost of **restoration** and repair of such **resources exceeds** the sum of \$500, such person shall be subject to a civil **fine** of not more than \$20,000."*

*"(2) In the case of a second or subsequent such violation upon **conviction** for assessment of **civil penalty** by the **Tribal Court**, such person shall be fined not more than \$100,000."*

*"(3) The criminal prosecution of **an** individual caught **trafficking** in the **cultural** resources of the Cheyenne River Sioux **Tribe** shall be done **in** the appropriate federal **court**."; and*

(2) by adding the following new sub-part:

*"(ii) The **Cultural Preservation Officer** and the CRST '**THPO**' are empowered by the CRST **Tribal Council** to present charges of a **violation(s)** of the **Cultural Resources Protection Act** of the **Cheyenne River Sioux Tribe** by any individuals **and/or** entities to the CRST Legal Department for prosecution."*

SECTION 10. Assessment of Actual and Punitive Damages.

There are no amendments to this section.

SECTION 11. Severability.

There are no amendments to this section.

What do the proposed tribal regulations do?

The proposed **regulations implement** the Cultural Resources Protection Act of the Cheyenne River Sioux Tribe. **The** regulations define **Ordinance** No. 57, No. **57(a)** and **the** proposed **Amendment** (b). **The** regulations **define section** by **section** what the Acts **purpose** and applicability is. It **defines** what is a cultural resource of the tribe. It **establishes** what **the responsibilities** and duties of the Cultural Preservation Office are even **taking** into account the **Office's** new role pertaining to the tribal archives **and the THPO program. And it specifies the procedures and penalties** for tribal permits.

NOTES

**CULTURAL RESOURCES PROTECTION ACT OF THE CHEYENNE RIVER SIOUX
TRIBE REGULATIONS—**

Ordinance #57, Ordinance #57(a), Ordinance #57(a) Amendment (b)

Subpart A— Introduction

Sec.

1, 2, 3 Purpose and applicability.

Subpart B— Cultural Resources

Sec.

4 **Definitions.**

Subpart C— Cultural Preservation Office

Sec.

5,6 Responsibilities and Duties.

Subpart D— Authority

Sec.

7, 8, 9 Regulation and Penalties.

Subpart E— General

Sec.

10, 11 Damages and **Severability.**

Subpart A— Introduction

(A) *Purpose.* ~~These~~ regulations wry out the provisions of the Cultural ~~Resources~~ Protection Act of the Cheyenne ~~River~~ Sioux Tribe of 1992 (**Ordinance #57**) and of 1995 (**Ordinance #57(a)**) and of 1999 (**Ordinance #57(a)** Amendment (b)). These regulations develop a **systematic** process for **the Cheyenne River** Sioux Tribe through regulation of its civil jurisdiction ~~over~~ all **member and non-member** residents of **the** reservation to **regulate the preservation** and protection of its cultural resources on all tribal lands.

(B) Applicability. These regulations pertain to the findings of the Cheyenne River Sioux Tribe as those findings are described in Section 2 of Ordinance #57 and Ordinance #57(a).

(1) Policy— It is the policy of the Cheyenne River Sioux Tribe to regulate its Cultural Resources Protection Act on all tribal lands in accordance with those stipulations as described in Section 3 of Ordinance #57, Ordinance #57(a) and as amended in Part (d) by Ordinance #57(a) Amendment (b).

(a) **Where** appropriate the Cheyenne River Sioux Tribe in accordance with applicable federal laws will utilize that federal policy towards the preservation and protection of cultural resources discovered on all federal lands within the exterior boundaries of the reservation.

I Subpart B— Cultural Resources

(A) *Definitions.* The definitions of:

(1) **Tribal lands means**— all lands which are owned by the tribe that are within the exterior boundaries of the reservation.

(2) **Tribal cultural resources means**— cultural resources identified on tribal lands are as defined in Section 4 **Definitions** of Ordinance #57(a). However the recognition of a tribal cultural resource is solely at the discretion of the Cheyenne River Sioux Tribal Council.

(3) **Tribal Council means**— the governing body of the Cheyenne River Sioux Tribe.

(a) At its convenience the CRST Tribal Council can by resolution recognize any property type on all tribal lands within the exterior boundaries of the reservation as constituting a tribal cultural resource.

(b) At its convenience the CRST Tribal Council can by resolution choose not to recognize any property type on all tribal lands within the exterior boundaries of the reservation as constituting a tribal cultural resource.

(4) **Tribal Secretary means**— the Office of the CRST Tribal Secretary.

(5) **Cultural Preservation Office means**— the Office of the CRST Cultural Preservation Officer.

(6) **Cultural Preservation Officer means**— the individual hired by the tribe that is

responsible for administering the preservation and repatriation activities of the tribe.

(7) **Tribal Archives means**— the facility owned by the Cheyenne River Sioux Tribe that **functions** as the storage facility housing tribal records and cultural items.

(8) **Tribal Archivist means**— the individual hired by the tribe that is directly responsible for **accessioning**, recording, storing, preserving, and **curating all** tribal records and cultural items held in the archives.

(9) **Tribal Historic Preservation Officer means**— the individual **designated** by tribal resolution **that** is responsible for managing 'SHPO*' responsibilities.

(10) **Tribal Archaeologist means**— the individual hired by the **tribe** that will **conduct** archaeological services on behalf of the tribe and its programs.

(11) **Cheyenne River Sioux Museum means** — the facility operated by the Cheyenne River **Sioux** Tribe for the purpose of displaying significant **cultural** items to the **general** public.

(12) **Federal lands means** — **any** land other than tribal lands that are controlled or owned by the United States Government **which** are within the exterior boundaries of the reservation.

(13) **Superior or Civil Court means**— the Tribal **Courts**.

Subpart C— Cultural Preservation Office

(A) **Responsibilities.** The **CRST** Cultural Preservation Office is:

(1) Supervised by the CRST Tribal Secretary.

(2) The tribal entity that is **responsible** for regulating Ordinance **#57**, Ordinance **#57(a)** and **Ordinance #57(a)** Amendment (b) on behalf of the Cheyenne River Sioux Tribe.

(a) The Office is the primary **tribal** entity for **consultation** with **all** appropriate tribal, federal, and state entities in all matters pertaining to the preservation and protection of the cultural resources of the tribe. However the Office is not the **only** tribal entity to require consultation from tribal, federal, and state governments in matters where the cultural resources or the traditional cultural **interests** of the tribe **are** concerned outside of the exterior **boundaries** of the **reservation**. At its discretion the **Tribal Council**, or the Tribal Chairman, may designate at **their convenience** any other tribal entity to represent the tribe in a consultation process.

(3) The tribal entity that is responsible for administering to all of the repatriation **activities** with a museum **and/or** federal agency that is undertaken on behalf of the **Cheyenne** River Sioux Tribe in accordance with the Native American Graves Protection And Repatriation Act of 1990, and the National Museum of the American Indian Act of 1989. Such responsibilities include but may not be **limited** too:

(a) receive and review museum **and/or federal** agency summaries and inventories of human **remains** and **cultural** items that ~~are~~ affiliated with the **Cheyenne** River Sioux Tribe and consulting with the same.

(i) ~~when~~ required by the inter-tribal Memorandum of **Agreement** to represent the repatriation interests of the MOA membership as **those interests are** defined **within** the MOA document.

(ii) write for and administer **any** National ~~Park~~ Service NAGPRA documentation **grant(s) and/or** repatriation **grant(s)** on behalf of the tribe.

(b) conduct museum and/or federal agency collection reviews.

(c) write a repatriation **request(s)** to a museum **and/or** federal agency for the return of human remains and cultural items that are **affiliated** with the Cheyenne River Sioux Tribe.

(d) retrieve human remains and cultural items repatriated **from** a museum **and/or** federal agency.

(e) **turn** over **all** repatriated human remains and cultural items for disposition to the **authorized** tribal disposition entity.

(4) The tribal entity that is responsible for managing the Tribal Archives until at such a time **the** Tribal Archives is established as its own tribal program.

(5) The tribal entity that is responsible for assuming and administering 'SHPO' responsibilities **from** the State of South Dakota on behalf of the tribe and establishing the CRST Tribal Historic Preservation Office program.

(B) Duties. For the Cultural Preservation **Officer** are:

(1) To regulate **Ordinance #57**, Ordinance **#57(a)** and Ordinance **#57(a)** Amendment (b).

(a) **investigate**, identify and record cultural resources.

- (b) issue work permits as **prescribed** in Ordinance **#57(a)** Section 7 **(a),(b),(b)(i),(c)**.
 - (c) **make** and publish regulations for the Ordinance and its amendments.
 - (d) revoke work permits for cause **as** prescribed in Ordinance **#57(a)** Section **8(a)**.
 - (e) present charges **as** prescribed in Ordinance **#57(a)** Amendment **(b)** Section **9(a)(ii)**.
 - (f) **to consult** with all entities concerning CRST preservation interests.
 - (g) **supervise** all CRST personnel assigned to the Office.
 - (i) those duties related to preservation as **assigned** by the Tribal Secretary.
 - (ii) those duties related to preservation as assigned by the Tribal **Chairman**.
 - (iii) those duties related to preservation as assigned by the Tribal **Council**.
- (2) To administer the repatriation activities of the tribe.
- (a) to **act** as the tribes primary **NAGPRA/Repatriation representative**.
 - (i) to **consult** with all entities **concerning** CRST Repatriation interests.
 - (b) to set repatriation ~~procedures~~ for the tribe.
 - (i) to write for NAGPRA related grants.
 - (ii) to **administer all** NAGPRA related **grants**.
 - (c) to **carry** out the procedures for repatriation **as** provided in Subpart (C)(3) of these regulations.
- (3) To manage the Tribal Archives as provided in Subpart (C)(4) of these regulations.
- (4) To manage the Tribal Historic Preservation Office program and its **'SHPO'** responsibilities assumed from the State of South Dakota.
- (a) to be the tribes designated THPO until **as** provided in Section **5** Part (d) of Ordinance **#57(a)** Amendment (b).
 - (b) to administer THPO **responsibilities** according to the CRST - NPS Memorandum of Agreement.
- (C) Duties. For the Tribal Archivist:
- (I) To **carry** out **all** duties **as** those duties **are** assigned by the Tribal Secretary **pertaining** to Archival **Practices**, Preservation, and Repatriation.
- (D) Duties. For the Tribal Historic Preservation Officer (THPO):

(1) In conjunction with the Cultural Preservation Officer to regulate Ordinance #57, Ordinance #57(a), and Ordinance #57(a) Amendment (b).

(a) investigate, identify, and record cultural resources.

(b) issue work **permits** as prescribed in Ordinance #57(a) Section 7(a),(b),(b)(i),(c).

(c) revoke work permits for cause **as** prescribed in Ordinance #57(a) Section 8(a).

(d) present charges **as** prescribed in Ordinance #57(a) Amendment (b) Section 9(a)(ii).

(e) consult with all entities concerning CRST preservation interests.

(2) To carry out those THPO responsibilities **as** the **responsibilities** are defined in the CRST - NPS Memorandum of Agreement.

(a) to consult with **all** appropriate entities on all CRST THPO interests.

(E) Museum. [Reserved]

Subpart D— Authority

(A) Regulation. Permits

(1) **Archaeological survey permits**— are issued to conduct archaeological surveys within the exterior boundaries of the reservation.

(a) violation of permit **condition(s)** are cause for revocation.

(2) **Archaeological excavation permits**— **are** issued to conduct the excavation of a pre-historic **and/or** historic archaeological site within the exterior boundaries of the reservation.

(a) violation of permit **condition(s)** **are** cause for revocation.

(3) **Exhumation permits**— are issued only in conjunction with tribal council approval to disinter a known **grave** site within the exterior boundaries of the reservation.

(a) violation of permit **condition(s)** **and/or** Tribal Council action are cause for revocation.

(4) **Paleontological permits**— are issued to conduct the excavation and examination of a paleontological site within the exterior boundaries of the reservation.

(a) violation of **permit condition(s)** are **cause** for revocation.

(B) Penalties. Charges made against any individuals and/or entities who are in violation of

Ordinance #57, Ordinance #57(a) and Ordinance #57(a) Amendment (b) can be presented by the Cultural Preservation Officer **and/or** the Tribal Historic Preservation Officer to the **CRST** Legal Department for prosecution. If convicted in tribal court or the appropriate federal court violators can be fined:

- (1) first violation— not to exceed \$10,000 or pending cost of restoration exceeding \$500 not to exceed **\$20,000**.
- (2) **second** violation—not to exceed \$100,000.
- (3) **trafficking**— prosecuted in federal **court**.

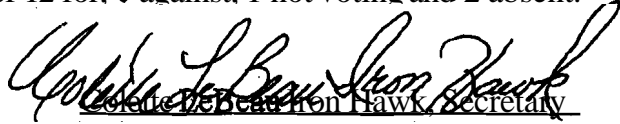
Subpart E— General

(A) Damages. The assessment of **actual** and punitive damages are left to the **desecration** of the proper **court**.

(B) *Severability*. Pending a finding that any provision of *Ordinance #57*, *Ordinance #57(a)* and **Ordinance #57(a)** Amendment (b) is held invalid by the **Courts** of the Cheyenne River Sioux Tribe, these **are** the regulations implementing said Ordinance and amendments.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribe, **certify** that the Tribal Council is composed of **fifteen** (15) members, of whom 12, constituting a **quorum**, were present at the Regular March Session of the Tribal Council, March 4, 1999; and that the foregoing amendments to Ordinance No. 57a were duly adopted at the March session of the Tribal Council by an **affirmative** vote of 12 for, 0 against, 1 not voting and 2 absent.


Charles DeBeauvoir Hawk, Secretary

Cheyenne River Sioux Tribe