

# Protecting Burials & Sacred sites



*Unloading fill at a Walmart construction site to cover `iwi kūpuna*

The Burial Sites Program (BSP) was created within the state Department of Land & Natural Resources (DLNR), State Historic Preservation Division (SHPD) to ensure the respectful treatment and protection of ancestral native Hawaiian burials and unmarked burials.

In 1990 the State Legislature, (Act 306) declared that all human skeletal remains and burial sites within the State of Hawaii are entitled to equal protection under the laws regardless of race, religion, or cultural origin.



*During construction, burials found (at the Keeaumoku Walmart site) were covered with plywood after cultural descendants voiced their dismay*

Under Hawai'i Revised Statutes (HRS) Section 6E-1, the legislature declared:

“that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage.” The legislature further declared “that it shall be the public policy of this State to provide leadership in preserving, restoring, and maintaining historic and cultural

property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property.”

Thus all people of the State of Hawai'i have a vital interest in the proper disposition of the bodies of its deceased persons, which is in the nature of a sacred trust for the benefit of all. Therefore the Legislature, in 1990 through Act 306, reaffirmed the common law rule that a land owner knowingly in possession of human skeletal remains cannot own the remains but merely holds the same in trust for cultural descendants, who have the right of possession for purposes of proper cultural preservation or reinterment.

In the ensuing decade, the pace of large-scale development has made more urgent the need to monitor, mitigate and prevent harmful impacts of construction projects to burials.

However the current management crisis at the State Historic Preservation Division has crippled the Burial Sites Program's ability to



*Photo by Franco Salmoiraghi*



carry out its mandate under the law.

In 2002 the State Auditor cited the State Historic Preservation Division for its poor management practices. Rather than correcting the practices, the division's problems have worsened.

Iwi kūpuna continue to be subjected to abhorrent treatment, including bulldozing, pile driving, exposure to hazardous construction activities, exposure to toxic and hazardous waste, being relocated inappropriately, and being mishandled and mistreated. Furthermore, hundreds of excavated iwi kūpuna have for years been stored in makeshift facilities across the state awaiting reinterment.

Despite strong pleas by community groups such as the Association of Hawaiian Civic Clubs (AHCC passed a resolution at its annual convention in 2003) and the Friends of the Burial Sites Program to adequately fund and staff the Burial Sites program, chronic turnovers and staff shortages are the norm. As of summer 2007, amongst the archaeological staff there currently is no one with a PhD and there is a 50% vacancy.

The result is that hundreds of burial remains, and that number grows monthly, await reinterment without any reasonable and respectful timeframe for reburial. Permit applicants encounter months of delays in seeking review of their applications and, in some instances, have been forced to lay off workers.

Some of the delays are so egregious that developers have begun to publicly criticize SHPD's ineffectiveness in producing timely reviews of the cultural impacts of permit applications. County agencies requesting mandated SHPD reviews may begin to issue ground-altering permits without any review after a reasonable period of waiting, leaving thousands of cultural sites and burial remains vulnerable to irreparable damage or destruction.

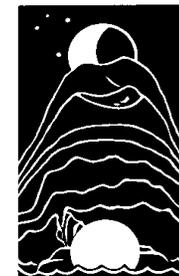
As of July 2007, SHPD had a backlog of over 227 permits for Hawaii island, at least 100 permits for Maui, and nearly 100 archaeological reports for both Maui and Hawaii for which the SHPD is overdue in reviewing. Each month, permitting agencies submit an average of 180 requests for SHPD review and comment, leaving unknown number of backlogged permits statewide.

The situation neither serves the interest of the Hawaiian community nor the landowners and developers trying to comply with the law.

The Governor and Department of Land & Natural Resources need to give the highest priority to the support, reform and restoration of the SHPD, including the Burial Sites program, and the State Legislature needs to adequately fund staffing of the Burial Sites Program and exercise regular oversight over the implementation of the historic preservation laws in order to monitor the progress of SHPD in remedying past deficiencies in staffing and program implementation.

Specifically, the Friends of the SHPD, a broad coalition of Hawaiian and other community organizations ask that the governor of the state of Hawai'i:

- Publicly acknowledge the problems of the SHPD
- Publicly committing resources to resolve those problems
- Appoint a professionally qualified State Historic Preservation officer as required by law
- Create a broad advisory group to assist the SHPD in implementing its programs



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