

**TESTIMONY
OF
BRIAN POGUE
DIRECTOR, BUREAU OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
AT THE OVERSIGHT HEARING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE
ON THE
THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT OF 1978**

July 14, 2004

Mr. Chairman and Members of the Committee, my name is Brian Pogue and I am the Director of the Bureau of Indian Affairs. I am pleased to be here today to provide the Administration's statement on the 25th anniversary of the passage of the American Indian Religious Freedom Act.

In 1978, the American Indian Religious Freedom Act (AIRFA) was enacted and mandated that the Federal government "protect and preserve for the American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and freedom to worship through ceremonials and traditional rites." Under AIRFA, Federal agencies are required to (1) seek and consider the views of Indian leaders when a proposed land use might conflict with traditional Indian religious beliefs or practices, and (2) avoid unnecessary interference, whenever possible, with Indian religious practices during project implementation.

In 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) was enacted to make easier the efforts of American Indians, Alaska Natives and Native Hawaiian organizations to claim ownership of certain cultural items including human remains, funerary objects, sacred objects and objects of cultural patrimony in the possession or control of Federal agencies and museums that receive Federal funds. NAGPRA requires agencies and museums to disclose holdings of such human remains and objects and to work with appropriate Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations to repatriate such cultural items.

Recently, the Secretary of the Interior appointed three members to the Native Protection and Repatriation Review Committee. The Committee consists of seven members who are charged with monitoring, reviewing, and assisting in the implementation of the NAGPRA. Appointments to the Committee are selected from nominations to the Secretary of the Interior by Indian tribes, Alaska Native villages, Native Hawaiian organizations, and national museum and scientific organizations. Each appointee serves for a four-year term.

Executive Order 13007, on *Indian Sacred Sites*, issued in 1996 gives federal agencies guidance on dealing with sacred sites. The Order directs federal land management agencies, to the extent practicable, to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and

to avoid adversely affecting the physical integrity of such sacred sites. The Order also requires federal agencies to consult with tribes on a government-to-government basis whenever plans, activities, decisions, or proposed actions affect the integrity of, or access to, the sites.

There is a growing concern among the public that Native American burial grounds and other sacred places are being desecrated by human encroachment or “urban sprawl.” The Bureau of Indian Affairs receives frequent requests for immediate intervention when individuals believe a burial mound is being bulldozed or a Native cemetery is being cleared for housing or other urban development. Whenever possible, we refer these requests to the appropriate agency.

The Administration and the Department continue to work with Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations to ensure access to and protection of sacred sites and to comply with repatriation laws. We support the American Indian Religious Freedom Act, which protects and preserves for the American Indian, Eskimo, Aleut, and Native Hawaiian the inherent right of freedom to believe, express, and exercise their traditional religions, access their religious sites, use and possess sacred objects, and the freedom to worship through ceremonial and traditional rites.

This concludes my prepared statement. I would be pleased to answer any questions the Committee may have.