

Minnesota House State and Local Government Finance & Policy Committee

March 20, 2023

Dear Members:

Statute 307.08 has not been heard in committee prior to inclusion in HF2940's Policy Language. Due to the sensitive nature and Minnesota's US – Dakota War, HF2940's article 2 section 33 needs to be removed and developed as a separate bill to address the federal Native American Graves Protection & Repatriation Act, statute 307.08, treatment of War victims, and formation of a State Grave Protection Act. The US – Dakota War demands all burial grounds, mass, marked and unmarked, be treated by the State in a similar manner as the federal NAGPRA treats assessed American Indian remains. Provisions for a State Grave Protection Act for all burial discoveries is long overdue.

At the most common of denominators, “appropriate authority” must be defined at each installation. The vague term lends itself to conflict and confusion especially due to the sensitivities of human remains.

HF2940 Article 2 Section 33 does not permit the State Archaeologist to assess the identity of the remains, only the ethnic, cultural, or religious affiliation. US – Dakota War murder victim descendants deserve more information including thorough attempts to identify each individual via any funerary objects found such as clothing, eyeglasses, jewelry, or artifacts.

Conditions created by the nonprofit Minnesota Historical Society highlight the dire need for a State Grave Protection Act. Land containing burials owned by the state yet claimed by the nonprofit exercise the need for more scrutiny.

2017's Section 54, subdivision 23 declared half of a historic site and district surplus property. MNHS stated the land would be better served to continue as a historic site if transferred to the neighboring Indian Tribe; final transfer documents state the reason is for Indian Trust. The DNR completed an Environmental Assessment without inclusion of the State Historic Preservation Office. The state property was illegally transferred by the nonprofit who claimed ownership however produced no title, deed, or tax parcel documents.

The land contains the bodies of not less than 20 murder victims from the US – Dakota War who were massacred on August 18, 1862 at the Lower Sioux Agency, a government community created to support Dakota Sioux Indians learning European farming methods. US Army documents, eyewitness accounts, and family histories confirm the location as does 21st century radar technology. These victims are Euro-American and Euro-Indigenous ethnicities.

MNHS answered no questions nor honored any requests made by victim descendants or historians. The transfer completed in 2021 where CEO Kent Whitworth said it was the first of more to come. The land remains unmarked against suggested requirements stated in 307.08 as it has for over 50 years under MNHS management. MNHS neglected to disclose the unmarked graves as required under 307.08 subd. 7a (2) (b). The land now requires Tribe access that can be denied per statute for no reason.

Prior to the transfer, MNHS failed to acknowledge burial site existence when citizens revealed their concern to the DNR during a public comment period. MNHS did not respond when historians followed

State Historic Preservation Office instructions to alert MNHS. The DNR's response to citizens was that the comment period did not extend to burial grounds, only the Land and Water Conservation provision. The full Environmental Awareness public comments and answers are available online. Links for much of the information follow.

Mass graves may not follow mortuary science but deserve the same attention. In many instances, victims were not found and buried or were found during agricultural or building construction years afterwards. In one instance, a child was left to die near a creek. In another, The Kochendorfer's were discovered in 1891. Their eldest surviving child, John, reinterred his parents' remains at Oakland Cemetery in St. Paul.

Due to the US – Dakota War's civilian death toll, Minnesota has a responsibility to protect all burial grounds at the same or higher standard as NAGPRA. These graves symbolize Minnesota's deep scars from domestic terrorism. A State Grave Protection Act should be embedded in the statute and it is not. All graves regardless of identity deserve the highest care and respect for human life. Minnesota's Legacy Amendment should provide for protection of war victims, all war victims. Please remove article 2 section 33 from HF2940. Repeal of 2017 Section 54 Subdivision 23 is needed to restore access to victim graves for commemorative and religious ceremony and descendant grieving.

Thank you,


Stephanie Chappell

[DNR Environmental Assessment Redwood County](#)

[DNR Responses to Public Commenters regarding graves, 3, 7, 7a, 8, 16](#)

[Full Public Comments, 3, 7, 7a, 8, 16](#)