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PUEBLO OF ACOMA
OFFICE OF THE GOVERNOR

May 13, 2016

Sally Jewell
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U.S. Department of the Interior
1849 C Street, N.W.
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John F. Kerry
Secretary of State
U.S. Department of State
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Loretta E. Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Request for Assistance - Auction of Pueblo of Acoma Cultural Patrimony

Dear Secretary Jewell, Secretary Kerry, and Attorney General Lynch:

On behalf of the Pueblo of Acoma, I am writing to request for the United States to take immediate forceful action in preventing the auction of Pueblo of Acoma cultural patrimony by the Eve Auction House in Paris, France on May 30, 2016. Recently, the Pueblo of Acoma became aware that the Eve Auction House released a catalogue for an auction of American Indian and Pre-Columbian Art (See attachment 1). The catalogue contains four hundred and forty-three (443) separate lots. A tremendous amount of the items are from the Southwest, identified as being from the Hopi Tribe, Zuni Pueblo, Acoma Pueblo, or other Ancestral Pueblos that are within our respective cultural provinces and with which we maintain a strong, deep connection. For the Pueblo of Acoma, a shield identified as lot #68, has been formally identified as an item of its cultural patrimony and cannot be sold. Furthermore, it never could have been lawfully transferred from Acoma possession. We are imploring the United States to make every effort to stop this auction and return the Acoma Shield.

I. Background on Cultural Patrimony

The Pueblo of Acoma has identified as its cultural patrimony, lot # 68 labeled as "BOUCLIER DE GUERRE Pueblo probablement Acoma ou Jemez XIX siecle ou plus ancien Cuir" (translation " WAR SHIELD Acoma Pueblo or probably Jemez [Pueblo] nineteenth century or older"). The Pueblo of Acoma traditional law concerning the legal nature of its cultural items, such as the shield, closely mirrors the Native American Graves Protection and Repatriation Act "NAGPRA". Under NAGPRA, 25 U.S.C. Section 3001(3)(D), cultural patrimony is:

[A]n object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

Under Pueblo of Acoma traditional law, it is illegal for any tribal member, who may have an item of cultural patrimony in their care, to sell or remove an item of Acoma cultural patrimony. This traditional law has been recognized by federal courts in New Mexico and Arizona.¹ It has been argued by many that these items were lawfully acquired and can be legally sold. This is a false statement and mischaracterization of the legal nature surrounding these items, especially the purported acquisition of Acoma items. Under Acoma law, these items are effectively owned by the Pueblo itself.

When encountering items of cultural patrimony, such as the Acoma shield, the Pueblo of Acoma utilizes its Historic Preservation Office Advisory Board, consisting of various tribal elders, religious leaders, and cultural practitioners to make assessments in identifying the provenance of an item.

II. Identification of the Acoma Shield

On June 1, 2015 the Eve Auction House conducted a similar auction of hundreds of items from the Southwest and other Tribal Nations, including items of cultural patrimony identified by the Pueblo of Acoma and the Hopi Tribe. The Pueblo of Acoma identified an Acoma shield, the same shield that is now lot #68, as an item of its cultural patrimony. Unfortunately, the sale took place before Acoma could seek your assistance or file a protest. Afterwards, the shield was recorded as not being sold. On May 9, 2016, the year's Eve Auction catalogue became available for public viewing. Once again, the Pueblo of Acoma has identified lot #68, the Acoma shield, as being an item of its cultural patrimony.

III. Limits on Recourse

¹ This premise is supported by federal convictions of individuals who attempted to traffic and sell Acoma cultural patrimony. See *United States v. Tidwell*, 191 F.3d 976 (9th Cir. 1999) (A set of historic priest's robes from the Pueblo of Acoma, along with Hopi cultural patrimony, were recovered after investigation by the Bureau of Indian Affairs); *United States of America v. Brian Garcia and Gerald Garcia*, 92-515 JC (D.N.M. 1992) (Two Pueblo of Acoma brothers pled guilty to illegal trafficking of Acoma cultural patrimony in violation of 18 U.S.C. Section 1170).

In 2015, the Pueblo of Acoma worked diligently alongside the Hopi Tribe to formally protest and bring legal action in France to stop the auctions and bring light to this issue². Last summer, the Pueblo of Acoma became aware of the Eve Auction of the Acoma shield, and other Acoma cultural patrimony, shortly before its deadline. Unfortunately, the Pueblo of Acoma was unable to file a formal protest in time of the Eve Auction, alongside the Hopi Tribe. However, the Pueblo of Acoma joined the Hopi Tribe in protesting a subsequent auction, by Christophe Joron-Derem in Paris, France, that contained Hopi and Acoma cultural patrimony. A formal protest was filed with the Conseil de Ventes, the administrative body regulating the French auctions. Our motion to suspend the auctions was denied. The Conseil de Ventes determined: 1) the tribes did not have standing or the legal capacity to bring an action; 2) the tribes lacked a material interest in the items protested; 3) the tribes are unable to establish the provenance of the items; and 4) no French law prohibits the items' sale. The Pueblo of Acoma and Hopi Tribe were rebuffed, and forced to watch as dozens of their items of cultural patrimony were sold away. Acoma filed an appeal in the French court, but was advised to withdraw it since the Acoma item, in the Christophe Joron-Derem Auction, had been sold rendering the appeal moot.

Now, we are faced with the same crisis, and are disconcerted at what actions to take. The Pueblo of Acoma has worked ardently to address this issue domestically; actively seeking out items of its cultural patrimony for sale, developing its own systems of monitoring, contacting and educating sellers, and working closely with local Bureau of Indian Affairs investigators. However, our work, and the laws of the United States are continually being undermined by the action of private auctioneers overseas who portray their establishments as safe havens from the laws of the United States. Their purposeful exportation of these items to evade United States and tribal law, which otherwise may prohibit these sales, is deplorable.

We implore you to take immediate action to assist the Pueblo of Acoma in obtaining the return of its cultural patrimony, and calling upon the French Republic to take all action necessary to cease the sale of unlawfully obtained American Indian cultural patrimony.

Sincerely,

PUEBLO OF ACOMA



Kurt Riley
Governor

² The Hopi Tribe, along with other southwestern tribes such as the Navajo Nation, has long been engaged in efforts to stop foreign auctions and bring awareness to this issue. Unfortunately, success has at times only come at the price of the tribes themselves being forced to pay, essentially a ransom, for the return of their own cultural patrimony. See Tom Mashberg, *Secret Bids Guide Hopi Indians' Spirits Home*, N.Y. Times (Dec. 16, 2013) http://www.nytimes.com/2013/12/17/arts/design/secret-bids-guide-hopi-indians-spirits-home.html?_r=0; See also Associated Press, *Navajos Reclaim Sacred Masks at Auction* (Dec. 16, 2014) <http://www.cbsnews.com/news/navajo-indians-buy-back-sacred-masks-in-france-auction/>

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68

estimate: 5 000 - € 7,000

Very rare SHIELD WAR Acoma Pueblo or probably Jemez nineteenth century or older

Leather, pigments feathers, cotton
Diameter 52 cm

Shield painted a mask with a round face has a yellow half blue-black half separated by a green nasal ridge. Mouth stylized leaves appear the teeth by a black ripple on white, with red lips. Eyes are realistic. The mask is surmount of a headdress, horns borders and includes a large polychrome radiant beard. The shield is black circle. This shield is composed of two thick skins tanned superimposed joined by four concentric rows of stitching leather. The back has a central outlet leather and two eccentric loops. These are now joined by a cotton thong. These eccentric loops allow the installation of a shoulder strap thereby allowing the shield during displacements, but also when the need arose to use both hands during a fight, let go of the shield and find it quickly. If the shields could have an intimidating role of the enemy, parade or defiance, the Pueblo peoples used these shields as a defensive, which explains the double thickness of leather that often consists. But also allowed the shield to attract good auspices of tutelary deities, which allowed the warrior to be protected by a super human power. Thus the figure represented on the present shield could match the Kachina Head of Acoma Tsitsanits (see Plate 1 'Origin Myth of Acoma and Other Records' Matthew W Sterling, BAE Bulletin 135 of 1942).

Although shields plains Indians have often been the work of shamans, this does not seem to be the case for the pueblo populations. If trends 'decorative' or stylistic appear for each pueblo, it is not uncommon for influences appear between the various villages. Often these are separated by tens of kilometers. But as pointed Barton Wright 'A complicating factor in Assigning designs to tribes or pueblos Particular Was the extensive interchange of shields under the conditions of warfare. If an enemy killed Where Was It was feasible to retrieve His possessions, a good shield taken along Would Be With His scalp '(B Wright, "Shields Pueblo", pg 13)

The dating of these shields is still sensitive. Many petroglyphs pre Contact show warriors holding handpainted shields.

According to Barton Wright, they were used by the pueblo populations 1700 1850. With few exceptions they were no longer manufactured after that date.