

Raynell Morris  
redacted address  
Bellingham, WA 98xxx



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Bellingham, WA 98xxx

July 27, 2019

Certified U.S. Mail - Return Receipt Requested  
Eric A. Eimstad, General Manager  
Miami Seaquarium  
4400 Rickenbacker Causeway  
Key Biscayne, FL 33149  
United States

Certified U.S. Mail - Return Receipt Requested  
Rolf Paegert, Chief Operating Officer  
Palace Entertainment  
4590 MacArthur Blvd Suite 400  
Newport Beach, CA 92660  
United States

Certified U.S. Mail - Return Receipt Requested  
José Diaz, Chief Executive Officer  
Grupo Parques Reunidos  
Paseo de la Castellana, 216. 16th floor  
28046 Madrid. Spain

**Re: Notice of Intent to Sue for Violations of the Native American Graves Protection and Repatriation Act**

Dear Señor Diaz, Mr. Eimstad, and Mr. Paegert:

This letter provides notice of the intent to sue Parques Reunidos, Palace Entertainment, Festival Fun Parks, Miami Seaquarium, and any parent company thereof, for the release and repatriation of *Sk'aliCh'elh-tenaut*, the orca held in possession by Miami Seaquarium.

We, *Tah-mahs* (Ellie Kinley) and *Squil-le-he-le* (Raynell Morris), are enrolled Lummi Nation tribal members.

Lummi Nation has requested the repatriation of *Sk'aliCh'elh-tenaut*, also known as Lolita and/or Tokitae, from the Miami Seaquarium to her home in traditional Lummi waters in the Salish Sea. This request has repeatedly been ignored, and so we are invoking NAGPRA in demanding her release and repatriation.

We intend to sue for the situations described herein if they are not remedied within ninety days.

## I. Legal Framework

The Native American Graves Protection and Repatriation Act requires agencies and institutions that receive Federal funds to return objects of cultural patrimony to the Native American individuals and/or Tribes from which those objects were taken.

Although NAGPRA has most often been used to repatriate human remains, funerary objects, and cultural artifacts, an acceptance of animals as cultural patrimony was established by *Dugong vs. Rumsfeld*, and has increasing international precedent as the rights of nature gain legal ground.

NAGPRA is an Act passed by the United States Federal government. The Lummi way is to consider *Sk'aliCh'elh-tenaut* as a sister, a daughter, an auntie as well as the embodiment of spiritual and cultural power and tradition. The relationship that exists between us –*Tah-mahs* and *Squil-le-he-le-* and *Sk'aliCh'elh-tenaut* is one that contains both tangible and intangible cultural and spiritual properties.

United States jurisprudence requires the use of language that does not make sense from a spiritual or cultural point of view. It does not make sense that *Sk'aliCh'elh-tenaut* would be considered an item or an object, but the language of NAGPRA requires that we use such language in describing the physical form that contains both an individual intelligence and soul and that also contains the essence known as “cultural patrimony.” The body of this orca, the family from which she was taken, and the line of her family stretching back to time immemorial, is part of a complex and dynamic system that also contains, and is contained by, the culture and spirit of the Lummi people.

*Okinawa Dugong vs. Rumsfeld* accepted the Japanese government’s classification of the Okinawa Dugong as a “monument,” and thus allowed the Dugong on the National Registry of Historic Places. There is precedent for the United States government to not only accept an animal as “cultural patrimony,” but also to accept the classification of such from another sovereign nation.

Lummi Nation is a sovereign nation that has declared *Sk'aliCh'elh-tenaut* to be of great cultural and spiritual value, and has called for her immediate repatriation to her own family and to the Lummi family. While “object of cultural patrimony” does not appear in the Lummi lexicon, it can be understood that *Sk'aliCh'elh-tenaut* belongs to the Lummi people as both a family member and as the embodiment of necessary cultural and spiritual weight and meaning.

## II. Factual Background

The entire Southern Resident Killer Whale population are *qwe'hol'mechen*, our “relations below the waves.” J, K, and L pods have been in a reciprocal relationship since time immemorial with the Lummi people. Teachings indicate not only deep cultural and spiritual connections between *qwe'hol'mechen* and *Lhaq'temish* (Lummi people), but also kinship bonds.

The Lummi term for “orca” is *qwe'hol'mechen*, which translates loosely to “our relations under the waves.” *Lhaq'temish* and the *qwe'hol'mechen* have shared deep spiritual connections, kinship bonds, and cultural affinity since time immemorial.

We, *Tah-mahs* and *Squil-le-he-le*, as enrolled members and lineal descendants of *Lhaq'temish* (Lummi people), know *Sk'aliCh'elh-tenaut* as a relation. *Sk'aliCh'elh-tenaut* embodies cultural and spiritual properties, both tangible and intangible, that are of utmost significance to the Lummi people, in particular to *Tah-mahs*, *Squil-le-he-le*.

Further, as the entire *qwe'hol'mechen* family (the Southern Resident Killer Whales) carries cultural and spiritual power for the Lummi people. Part of the family system that constitutes this cultural patrimony has been missing since 1970; namely, *Sk'aliCh'elh-tenaut*. Her return to L-pod, the Salish Sea, and to us as the Lummi people is critical.

As a member of *qwe'hol'mechen*, *Sk'aliCh'elh-tenaut* is, to Lummi people, an “object of cultural patrimony,” if one must step outside our Lummi worldview and *schelangen* and use the legal and corporate language of United States jurisprudence.

“Cultural affinity” is also a NAGPRA consideration: plaintiffs must demonstrate a historical and ongoing relationship to the subject. In this case, our Lummi tribal affinity to *Sk'aliCh'elh-tenaut* is demonstrable.

Miami Seaquarium, a subsidiary of Palace Entertainment, whose parent company is Parques Réunidos, is an oceanarium that has received federal funding for disaster relief, for manatee rescue and rehabilitation, and for coral reef research and exhibition. As such, Miami Seaquarium is subject to NAGPRA.

## III. Legal Violations

*Sk'aliCh'elh-tenaut* was violently taken from L-pod in 1970 at the ancestral village site of *Sk'aliCh'elh*, and she has been held in possession by Miami Seaquarium ever since. Lummi Nation never consented to, and was never even informed of, this abduction.

Lummi Nation has repeatedly requested the repatriation of *Sk'aliCh'elh-tenaut*, but Miami Seaquarium has refused to comply or to even discuss the matter directly with Lummi Nation or individual tribal members.

IV. Conclusion

Miami Seaquarium, as an oceanarium engaged in research and exhibition, is an institution that has received federal funding, and is thus subject to NAGPRA. Federal funds received include those for disaster relief, manatee rehabilitation, and coral reef research and exhibition.

For the foregoing reasons, if Parques Reunidos, Palace Entertainment, and Miami Seaquarium do not agree to release and repatriate *Sk'aliCh'elh-tenaut* within ninety days, we intend to file suit.

We urge Parques Reunidos, Palace Entertainment, and Miami Seaquarium to contact us regarding this letter to discuss options for avoiding litigation.

*Hy'shqe* (thank you) for your prompt attention to this matter.

Sincerely,



*Squil-le-he-le* (Raynell Morris)

July 27, 2019  
Date



*Tah-mahs* (Ellie Kinley)

July 27 2019  
Date

Cc:  
Christian Sinding  
CEO and Managing Partner, EQT  
Bahnhofstraße 20  
CH-8001 Zurich  
Switzerland