

**H B**

**436**

# HOUSE COMMITTEE REPORT

(9)  
Date Referred: January 22, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/26/90

The RESOURCES Committee considered:

HB 436

HOUSE BILL NO. 436

PROTECTION OF NATIVE HUMAN REMAINS

"An Act relating to historic, prehistoric, and archeological resources."

**RECOMMENDATIONS:**

- be replaced with CS HB 436 (RES)  the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact DNR
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

\_\_\_\_\_  
*Cliff Davidson*  
 \_\_\_\_\_  
*Mike Malone*  
 \_\_\_\_\_  
*Bill Huds*  
 \_\_\_\_\_  
*Carl ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING:**  
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>M. H. D.</i>		✓	
<i>Bob ...</i>		✓	

*Cliff Davidson*  
Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: HB 436  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 22-Mar-90 Agency Affected: Natural Resources  
 Title: An Act relating to historic, prehistoric  
and archeological resources. BRU: Parks & Outdoor Recreation  
 Sponsor: Daividsen Components: Historic Resource Mgmt  
 Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	70.0	35.5	37.0	37.0	37.0	37.0
TRAVEL	50.0	40.0	40.0	40.0	40.0	40.0
CONTRACTUAL	35.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	2.0	1.5	1.5	1.5	1.5	1.5
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	157.0	82.0	83.5	83.5	83.5	83.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	157.0	82.0	83.5	83.5	83.5	83.5
FEDERAL FUNDS						
OTHER						
TOTAL	157.0	82.0	83.5	83.5	83.5	83.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400  
 Division: Commissioner's Office Date: 22-Mar-90

Approved by Commissioner: Tom Hawkins for Lennie Gorsuch Date: 22-Mar-90  
 Agency: Department of Natural Resources

Distribution (by preparer) :

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# MEMORANDUM

## State of Alaska

TO: Gary Kostenko  
Budget Analyst

DATE: March 22, 1990

FILE NO: 3130-2 Legislation

TELEPHONE NO: 762-2630

FROM: Bob Shaw  
Office of Hist. & Archaeo.

SUBJECT: HB436 Fiscal Note  
Analysis for 3-16-90 Draft

Sec. 41.35.410(b) This section requires DNR to determine nature of remains and that process of determination is likely to involve travel to the field location of remains to collect information about the physical nature of the occurrence. "Further investigation" is also likely to involve travel to interview informants and research in archives and museums. Costs were estimated at 6 months archaeologist salary(\$34.5) and \$25.0 travel expenses.

Sec. 41.35.420 Dispute Resolution Committee. Expenses of this committee were estimated at \$15.0 in travel and per diem. This assumes committee members will not be reimbursed for time spent on committee duties.

Sec. 9: Disposition of Items Already Held: Costs to the Department will come from collection of information to compile a report and abstract it for distribution to tribes. Those activities will likely include travel to the field, processing of radiocarbon samples to obtain age determinations on remains, and processing of data collected. Those activities are estimated to require about 6 months archaeologist salary. Additionally, storage of remains or contractual costs for curation of remains in a museum are added expenses. Since the public will not notify DNR of burial remains in their possession unless they are notified of the existence of this requirement, we will also need to advertise the requirement statewide in newspapers, etc. Advertisement costs are estimated at 5.0. Travel and per diem costs are estimated at \$10.0, salary estimated at \$34.5, and contractual/rental costs estimated at \$30.0.

FY 1992 and FY1993 cost figures represent extensions of the above amounts. The costs for remains already held should drop out after the first year

HB 436

AMENDMENT #1  
by Davidson

**Section 9.** Page 6, line 18: after words "available for disposition" add

"by certified mail."

add Page 6, line 27: after words "of the discovery"

"by certified mail."

the department" add Page 7, line 5: after the words "notification by

"by certified mail."

(b) of this section" add Page 8, line 26: after the words "prepared under

"by certified mail."

HB436

AMENDMENT #2  
By Davidson

Section 1. Page 2, Line 4/5: after "for medical" add  
" educational"

HB 436

**AMENDMENT #3**  
by Davidson

Section 8. Page 5, Line 10. after ", in any stage of decomposition" add

"excluding non-skeletal body parts shed during life such as hair, nails and isolated teeth."

6-1654J  
Lauterbach  
3/22/90

Original sponsor(s): REP. DAVIDSON, Hoffman, MacLean, Goll, Jacko,  
Collins, Grussendorf, Menard

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 436 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of Alaska Native  
7 human remains and funerary objects; and relating to  
8 discovery, possession, sale, barter, and display of  
9 human remains."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 12.65 is amended by adding new sections to read:

12 ARTICLE 2. HUMAN REMAINS.

13 Sec. 12.65.150. REPORTS OF HUMAN REMAINS. (a) Except as pro-  
14 vided in (b) of this section, a person who encounters human remains in  
15 or on the ground shall

16 (1) immediately cease any activity that may cause further  
17 disturbance of the area; and

18 (2) report the presence and location of the remains to the  
19 nearest law enforcement agency as soon as possible considering the  
20 location of the discovery and the availability of communication alter-  
21 natives.

22 (b) The requirements of (a) of this section do not apply to a  
23 person who encounters human remains while operating under a permit  
24 issued under AS 41.35.080.

25 (c) If the law enforcement agency determines that remains re-  
26 ported to it under (a) of this section are unrelated to a prosecutable  
27 offense and may be Native human remains, the agency shall notify the  
28 Department of Natural Resources.

29 (d) A person who knowingly fails to comply with (a) of this

1 section is guilty of a class A misdemeanor.

2 Sec. 12.65.160. UNLAWFUL ACTS. A person may not sell, buy, or  
3 inter human remains. A person may not display human remains except  
4 in connection with funeral or burial rites or as required for medical  
5 or law enforcement activities. A person who violates this section is  
6 guilty of a class A misdemeanor.

7 Sec. 12.65.170. DEFINITION. In AS 12.65.150 - 12.65.170, "human  
8 remains" means a dead human body, or part of a dead body, in any stage  
9 of decomposition.

10 \* Sec. 2. AS 41.35.040 is amended to read:

11 Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONU-  
12 MENTS AND HISTORIC SITES. State-owned monuments, sites, and other  
13 historic, prehistoric, or archeological properties owned or purchased  
14 by the state are under the control of the department, and their main-  
15 tenance shall be covered in the appropriations made to the department.  
16 Privately owned state monuments or historic sites are eligible to  
17 receive state support for their maintenance, restoration, and reha-  
18 bilitation if they are kept accessible to the general public, they are  
19 in compliance with state laws pertaining to Native human remains and  
20 funerary objects, and application for support is made in conformity  
21 with regulations adopted by the commissioner.

22 \* Sec. 3. AS 41.35.060(a) is amended to read:

23 (a) The department, with the recommendation of the committee,  
24 may acquire real and personal properties that have statewide historic,  
25 prehistoric, or archeological significance by gift, purchase, devise,  
26 or bequest. If the department acquires disinterred human remains or  
27 funerary objects under this subsection, it shall comply with AS 41.-  
28 35.410. The department shall preserve and administer property so  
29 acquired. The department may acquire property adjacent to the

1 property having historic, prehistoric, or archeological significance  
2 when it is determined to be necessary for the proper use and adminis-  
3 tration of the significant property.

4 \* Sec. 4. AS 41.35.070 is amended by adding a new subsection to read:

5 (h) If the department discovers human remains or funerary ob-  
6 jects during a survey under (d) of this section, the department shall  
7 comply with AS 12.65.150 and AS 41.35.410.

8 \* Sec. 5. AS 41.35.080 is amended to read:

9 Sec. 41.35.080. PERMITS. The commissioner may issue a permit  
10 for the investigation, excavation, gathering, or removal from the  
11 natural state [,] of any historic, prehistoric, or archeological  
12 resources of the state or human remains or funerary objects reported  
13 under AS 12.65.150 or AS 41.35.410. A permit may be issued only to  
14 persons or organizations qualified to make the investigations, exca-  
15 vations, gatherings, or removals and, except as otherwise provided in  
16 permit restrictions included under (b) of this section, only if the  
17 results of these authorized activities will be made available to the  
18 general public through institutions and museums interested in dissemi-  
19 nating knowledge on the subjects involved. If the historic, prehis-  
20 toric, or archeological resource involved is one that [WHICH] is, or  
21 is located on a site that [WHICH] is, sacred, holy, or of religious  
22 significance to a cultural group, the consent of that cultural group  
23 must be obtained before a permit may be issued under this section.

24 \* Sec. 6. AS 41.35.080 is amended by adding a new subsection to read:

25 (b) If the area for which a permit is issued under (a) of this  
26 section contains, or is reasonably expected to contain, human remains  
27 or funerary objects, the department shall include in the permit re-  
28 strictions and procedures for the treatment and disposition of the  
29 human remains and funerary objects. The restrictions and procedures

1 may not conflict with the requirements of AS 41.35.410 and, notwith-  
2 standing AS 09.25.110 - 09.25.120 and (a) of this section, may provide  
3 for restrictions on the disclosure of information related to Native  
4 human remains and funerary objects that may be discovered.

5 \* Sec. 7. AS 41.35.090 is amended to read:

6 Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any  
7 construction, alteration, or improvement of any nature is undertaken  
8 on a privately owned, officially designated state monument or historic  
9 site by any person, the person shall give the department three months'  
10 [MONTHS] notice of intention to construct on, alter, or improve it.  
11 If the construction, alteration, or improvement involves known Native  
12 human remains or funerary objects for which the tribe of origin is  
13 reasonably identifiable, the person shall also give the governing body  
14 of the tribe three months' notice of intention to construct, alter, or  
15 improve. Before the expiration of the three-month notification  
16 period, the department shall either begin eminent domain proceedings  
17 under AS 41.35.060(b) or undertake or permit the recording and salvag-  
18 ing of any historic, prehistoric, or archeological information con-  
19 sidered necessary.

20 \* Sec. 8. AS 41.35.230 is amended to read:

21 Sec. 41.35.230. DEFINITIONS. In this chapter [AS 41.35.010 -  
22 41.35.240], unless the context otherwise requires,

23 (1) [REPEALED

24 (2)] "committee" means the Historic Sites Advisory Commit-  
25 tee;

26 (2) "funerary objects" means items that are reasonably  
27 believed to have been intentionally placed with the remains of a  
28 Native, either at the time of burial or interment or at some subse-  
29 quent time, as a part of the death rites or ceremonies of a culture;

1 (3) [REPEALED

2 (4)] "historic, prehistoric and archeological resources"  
3 includes deposits, structures, ruins, sites, buildings, grave sites  
4 [GRAVES], artifacts, fossils, or other objects of antiquity that  
5 [WHICH] provide information pertaining to the historical or prehistor-  
6 ical culture of people in the state as well as to the natural h .ory  
7 of the state, except that the term does not include human r emains or  
8 funerary objects;

9 (4) "human remains" means a dead human body, or part of a  
10 dead body, in any stage of decomposition;

11 (5) "Native" means a person who is a descendant or ancestor  
12 of the aboriginal races inhabiting the state when it was annexed to  
13 the United States or a descendant or ancestor of an Indian or Eskimo  
14 who, after the year 1867, migrated into the state from Canada;

15 (6) "reasonably identifiable" means identifiable, by a  
16 preponderance of the evidence, as to individual, familial, or tribal  
17 origin based on available archeological, historical, ethnological, or  
18 other direct circumstantial evidence or expert opinion;

19 (7) "tribe" means a group recognized as a tribe by the  
20 United States Secretary of Interior, or a Native village or regional  
21 corporation or other Native group defined in or established under 43  
22 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement Act).

23 \* Sec. 9. AS 41.35 is amended by adding a new section to read:

24 ARTICLE 3. DISCOVERY OF HUMAN REMAINS AND FUNERARY OBJECTS.

25 Sec. 41.35.400. POLICY. It is the policy of the state that no  
26 person can lawfully assert title to human remains. The right of  
27 disposition of human remains lies with the state unless the decedent's  
28 living relatives or tribe are reasonably identifiable as provided in  
29 AS 41.35.410.

1           Sec. 41.35.410. HUMAN REMAINS AND FUNERARY OBJECTS. (a) When  
2 human remains are discovered by or reported to the department, the  
3 department shall notify the nearest law enforcement agency unless a  
4 report has already been made under AS 12.65.150. After law enforce-  
5 ment activities related to the remains have ceased, the department  
6 shall comply with (c) of this section.

7           (b) A person who discovers objects that may be funerary objects  
8 in or on the ground shall promptly report the discovery to the depart-  
9 ment. If the department determines upon further investigation that  
10 the objects are probably funerary objects, the department shall comply  
11 with (c) of this section.

12           (c) If human remains or funerary objects described in (a) and  
13 (b) of this section are not disinterred, the department shall leave  
14 them in the place where they are interred. If the human remains or  
15 funerary objects are disinterred and the decedent's living descendants  
16 are reasonably identifiable, the department shall notify the dece-  
17 dent's relative with the closest kinship ties that the remains and  
18 funerary objects are available for disposition. If the remains and  
19 funerary objects include Native human remains or funerary objects and  
20 the department is unable to ascertain the existence and address of  
21 living descendants of the decedent, the department shall determine  
22 with as much specificity as possible their tribe of origin and notify  
23 the governing body of the tribe of their discovery and location. If a  
24 specific tribe of origin is not reasonably identifiable, the depart-  
25 ment shall give the notice of the discovery and its location to the  
26 governing body of the tribe whose members predominate in the vicinity  
27 of the discovery.

28           (d) At the request of a descendant or the governing body of a  
29 tribe notified under (c) of this section, the department shall provide

1 for access to the remains or funerary objects so that the descendant  
2 or the tribe may dispose of them. A tribe may not be allowed to have  
3 access until the tribe's plan for disposition of the remains or  
4 objects has been submitted to the department. If, within 120 days  
5 after notification by the department, neither a descendant nor a tribe  
6 seeks the right to dispose of the remains or funerary objects, the  
7 department shall treat them in the same manner as it treats other  
8 unclaimed human remains or historic, prehistoric, and archeological  
9 resources under this chapter, as applicable.

10 (e) A person may request a tribe to grant to the person an  
11 opportunity to study human remains or funerary objects for which the  
12 tribe is granted disposition rights under (c) of this section.

13 Sec. 41.35.420. DISPUTE RESOLUTION COMMITTEE. The governor  
14 shall establish committees to resolve disputes concerning the tribe of  
15 origin for Native human remains and funerary objects. A committee  
16 consists of the state liaison officer appointed under 16 U.S.C. 470 -  
17 470n (National Historic Preservation Act) and the following persons,  
18 who shall be appointed by the governor as the need arises:

19 (1) a physical anthropologist;

20 (2) a person from each tribe that has a colorable claim to  
21 the human remains or funerary objects that are the subject of the  
22 dispute; and

23 (3) another resident of the area from which the remains and  
24 objects originated who does not meet the requirement of (2) of this  
25 section.

26 \* Sec. 10. DISPOSITION OF ITEMS ALREADY HELD. (a) A person who on the  
27 effective date of this Act possesses human remains or funerary objects,  
28 other than a member of a tribe from which the remains or objects origi-  
29 nated, shall, within 120 days after the effective date of this Act, notify

1 the Department of Natural Resources of the nature and location of the re-  
2 mains and objects.

3 (b) The department shall prepare an abstract containing indexed  
4 information related to the reports made under (a) of this section. The  
5 abstract must include, with reference to the remains or funerary objects,

6 (1) the name of the person who possesses them;

7 (2) the permit number under which they were obtained, if appli-  
8 cable;

9 (3) their current physical location;

10 (4) the physical location from which they were originally ob-  
11 tained;

12 (5) their probable tribe of origin if the remains or objects  
13 appear to be Native in origin; and

14 (6) the general time period during which they were originally  
15 deposited in or on the ground.

16 (c) The department shall send the abstract prepared under (b) of this  
17 section to the governing body of each tribe in the state. The governing  
18 body of a tribe may file a claim with the department requesting that Native  
19 human remains or funerary objects associated with that tribe be returned to  
20 the tribe for disposition. If the governing body of more than one tribe  
21 files a claim for the same human remains or funerary objects, a committee  
22 established under AS 41.35.420, enacted by sec. 9 of this Act, shall deter-  
23 mine which tribe's claim should be honored by the department.

24 (d) If no tribe files a claim for some of the remains or objects  
25 under (c) of this section within 120 days after receiving the abstract  
26 prepared under (b) of this section, the department shall

27 (1) take possession of those remains and objects; or

28 (2) enter into agreements with persons or institutions for  
29 protective custody of the remains and objects.

1 (e) In this section,

2 (1) "department" means the Department of Natural Resources;

3 (2) "funerary objects," "human remains," "Native," and "tribe"  
4 have the meanings given in AS 41.35.230, as amended by sec. 8 of this Act.  
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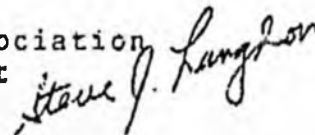
# Alaska Anthropological Association

P.O. Box 230032 Anchorage, Alaska 99523

Feb. 7, 1990

TO: Members of the House Natural Resources Committee  
Reps. Davidson, Menard, Jacko, Davis, Foster, Furnace  
Hudson, Navarre, Sharp

FR: Alaska Anthropological Association  
Steve J. Langdon, President



RE: Continuance for HB 436

The Alaska Anthropological Association is dedicated to scientific investigation and understanding of Alaskan prehistory and Alaska Native cultures. Its membership includes professional archeologists, anthropologists, Alaska Natives and other citizens interested in these matters.

The Association's Board of Directors has reviewed HB 436, "An Act relating to historic, prehistoric, and archeological resources" (version 2/3/90) and would like to register these comments. The Association is deeply committed to the responsible treatment of all archeological resources including human skeletal remains. The proposed legislation, however, will likely adversely affect archeological research into Alaskan prehistory and may even preclude such research. Although we do not feel this was the intention of the bill's sponsors, serious ambiguities in the bill require further deliberation and clarification in order to preclude possible unforeseen negative impacts. The board therefore recommends that a continuance be granted allowing interested and affected parties time to consider the implications of the bill and to present their comments to the committee. The Board is convinced that through fuller discussion and deliberation, a broad-based consensus reflecting the concerns of the interested parties can be obtained. We stand ready to assist the committee in any way in order to help revise the legislation.

6 February 1990

To: Members of the Committee on Natural Resources  
Alaska State House of Representatives  
Juneau, AK

From: David R. Yesner, Ph.D. *DRY*  
Alaska Representative to the Committee on Public Archaeology,  
Society for American Archaeology

*Re: Repatriation Bill*

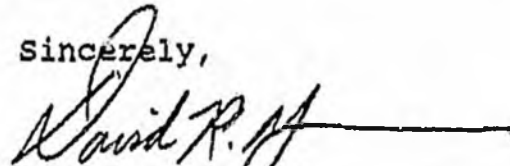
Hon. Members of the Committee on Natural Resources:

On Thursday, February 8th., the Alaska state legislature will take up a proposed bill on repatriation of human skeletal remains and funerary objects to native "tribes and cultural groups" within Alaska. The bill will apply to burials on state land and on private property that may be declared as a "state monument." It requires that all institutions must, within 30 days of passage of the act, prepare a detailed list of all human skeletal materials in their possession, and within 120 days must indicate the appropriate "tribe or cultural group" to which the remains refer, so that the appropriate group may dispose of the remains in the way they see fit. There is no definition of a "tribe or cultural group," so that it is not apparent whether simply declaring material to refer to "Eskimos" or to the Aglegmiut, Malemiut, Nunamiut, Tareumiut, etc. is required. No attempt is made to provide funding for such study. Furthermore, permits must be required from the relevant native "tribe or cultural group" before any excavations may be conducted on state land, or on private land declared as a state monument, if there is even any possibility that human skeletal materials might be encountered. This presents an almost total veto power over the conduct of professional archaeology in the state, and will greatly complicate the permitting process for conducting archaeology within the state in response to federal and state requirements for cultural resource assessment and mitigation in connection with federal and state projects. It was also place great burdens on the Office of History and Archaeology, DNR, and various institutions in analyzing and assessing extant materials. In large part, the problem depends on the period of time over which it can be judged that human remains can be attributed to a particular group; there is no language in the bill to address this question. No provision is made for any length of study of materials before disposal by native groups. Nowhere in the bill is there any acknowledgment of the importance of the scientific data from human skeletal remains in helping to understand the origins and affiliation of Alaska Native groups; their ancient lifestyles, populations, health, and nutrition; or their descent through time, which has been in some cases used to justify native land claims. Finally, no provision is even made for the disposition of the materials themselves by native groups; theoretically, they may even be sold!

As the COPA representative of the state of Alaska, I would like to call your attention to the official position of the Society for American Archaeology on reburial and repatriation, a copy of which is enclosed. Briefly, the official position of the SAA is that the reburial and repatriation of human remains and associated burial goods should take place on a case-by-case basis, with the mutual agreement of native groups and professional archaeologists, rather than through the use of blanket legislation. I have also informed the Office of Governmental Relations of the SAA for their interest. At present, I request that any hearings on this bill be delayed until all interested parties have an opportunity to present their viewpoints on revisions or any contemplated legislation.

Thanks very much for your interest.

Sincerely,



David R. Yesner  
Dept. of Anthropology  
University of Alaska  
3211 Providence Drive  
Anchorage, AK 99508

# Bulletin

November 1989

Vol. 7, No. 6

## OF THE SOCIETY FOR AMERICAN ARCHAEOLOGY

### Reburial and Repatriation

Jeremy Sabloff, SAA president, has formed a Task Force on Reburial and Repatriation to review legislative initiatives and to advance the Society's position with the Congress and the media. Since its creation, the Task Force has worked closely with the SAA's Office of Government Relations, particularly on the historic preservation legislation, with reburial provisions, proposed by Senator Fowler and on the reburial and repatriation sections of the bill introduced by Representative Campbell. The Task Force is chaired by Keith Kintigh (Arizona St.) and includes Richard Ford (Michigan), Lynne Goldstein (Wisconsin-Milwaukee), William Lovis (Michigan St.), Vincas Steponaitis (North Carolina), and Phillip Walker (California-Santa Barbara).

The Society's position on reburial was adopted by the Executive Committee in May 1986, after a long period of study and careful consideration. This position maintains that both scientific and traditional interests in human remains are legitimate. It states that the disposition of human remains should be determined on a case-by-case basis, considering the beliefs and strength of the relationship of possible claimants to the remains and the scientific value of the remains. However, in cases where the remains are of a known individual, disposition should be determined by the closest descendants, regardless of scientific value. The statement encourages communication between scholars engaged in the study of human remains and the communities that have an affiliation with the remains.

Given the public debate concerning reburial, and because there appears to be some uncertainty within the profession about the Society's position, the SAA Statement Concerning the Treatment of Human Remains is reproduced below from the June 1986 Bulletin. Any questions or comments concerning this position should be directed to Keith Kintigh, Department of Anthropology, Arizona State University, Tempe, AZ 85287-2402.

### SAA Statement Concerning the Treatment of Human Remains

Archaeologists are committed to understanding and communicating the richness of the cultural heritage of humanity, and they acknowledge and respect the diversity of beliefs about, and interests in, the past and its material remains.

It is the ethical responsibility of archaeologists "to advocate and to aid in the conservation of archaeological data," as specified in the Bylaws of the Society for American Archaeology. Mortuary evidence is an integral part of the archaeological record of the past culture and behavior in that it informs directly upon social structure and organization and, less directly, upon aspects of religion and ideology. Human remains, as an integral part of the mortuary record, provide unique information about demography, diet, disease, and genetic relationships among human groups. Research in archaeology, bioarchaeology, biological anthropology, and medicine depends upon responsible scholars having collections of human remains available both for replicative research and research that addresses new questions or employs new analytical techniques.

There is great diversity in cultural and religious values concerning the treatment of human remains. Individuals and cultural groups have legitimate concerns derived from cultural and religious beliefs about the treatment and disposition of remains of their ancestors or members that may conflict with legitimate scientific interests in those remains. The concerns of different cultures, as presented by their designated representatives and leaders, must be recognized and respected.

The Society for American Archaeology recognizes both scientific and traditional interests in human remains. Human skeletal materials must at all times be treated with dignity and respect. Commercial exploitation of ancient human remains is abhorrent. Whatever their ultimate disposition, all human remains should receive appropriate scientific study, should be responsibly and carefully conserved, and should be accessible only for legitimate scientific or educational purposes.

The Society for American Archaeology opposes universal or indiscriminate reburial of human remains, either from ongoing

excavations or from extant collections. Conflicting claims concerning the proper treatment and disposition of particular human remains must be resolved on a case-by-case basis through consideration of the scientific importance of the material, the cultural and religious values of the interested individuals or groups, and the strength of their relationship to the remains in question.

The scientific importance of particular human remains should be determined by their potential to aid in present and future research, and thus depends on professional judgments concerning the degree of their physical and contextual integrity. The weight accorded any claim made by an individual or group concerning particular human remains should depend upon the strength of their demonstrated biological or cultural affinity with the remains in question. If remains can be identified as those of a known individual from whom specific biological descendants can be traced, the disposition of those remains, including possible reburial, should be determined by the closest living relatives.

The Society for American Archaeology encourages close and effective communication between scholars engaged in the study of human remains and the communities that may have biological or cultural affinities to those remains. Because vandalism and looting threaten the record of the human past, including human remains, the protection of this record necessitates cooperation between archaeologists and others who share that goal.

Because controversies involving the treatment of human remains can properly be resolved nation-wide in a uniform way, the Society opposes any federal legislation that seeks to impose a uniform standard for

### In This Issue:

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Las Vegas Meeting

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Teaching Archaeology

determining the disposition of all human remains.

Recognizing the diversity of potential legal interests in the material record of the human past, archaeologists have a professional responsibility to seek to ensure that laws governing that record are consistent with the objectives, principles, and formal statements of the Society for American Archaeology.

Executive Committee  
The Society for American Archaeology  
New Orleans, Louisiana  
May 1986

(Reprinted from Bulletin 4[3]:7-8, June 1986).

## Foundation for American Archaeology

The fact that you are reading the SAA Bulletin tells us something about you. To begin with, you are vitally interested in archaeology and probably earn your living in the discipline in one capacity or another. Moreover, you very much want to keep up with the latest news about your Society.

You should be pleased, then, to learn that the Agnese N. Lindley Foundation in Tucson, AZ has offered the SAA a \$2,000 challenge grant for funds needed for legal fees to establish a Foundation for American Archaeology, search for a managing director and print brochures.

If you attended the National meetings held in Atlanta, you know that the SAA authorized the establishment of a Foundation for American Archaeology along the outlines presented in the March 1989 issue of the Bulletin.

The goal of the Foundation is to provide education to individuals, all levels of government that affect archaeology, and corporations concerned with archaeology. The Foundation will respond in various ways to the numerous opportunities that occur for education about issues of pothunting and concerns about reburial and the repatriation of artifacts.

There presently is no formal structure to address the many demands and opportunities to educate the public about the true nature of the discipline of archaeology. The public gets their information about archaeology from popular movies, and from sensational news accounts. The success of films and articles about archaeology indicates there is tremendous public interest in the subject, which forms a natural constituency for support of archaeological research. The Foundation would tap this interest for education about the true nature of archaeology. The establishment of this

Foundation is essential, for the discipline has never faced such grave challenges nor such a receptive audience.

In order to put these ambitious plans in motion, George Gumenman was asked to chair a task force composed of Dena Dincauzo, Brian Pagan, Mark Leone, William Marquardt, Stuart Strucver, and Daniel Thiel.

We are pleased to report that their efforts are bearing fruit and the challenge grant is a giant step in the right direction. What is now needed is for the SAA membership to match the \$2,000 offered by the Agnese N. Lindley Foundation. Obviously \$4,000 is only a beginning, but it is a start.

This is a modest sum. A five or ten dollar donation or more from everyone who reads this will quickly match the requisite amount. Since you have already demonstrated your interest in archaeology by the simple exercise of reading this, you will surely want to help make the Foundation a reality by contributing toward the \$2,000 challenge. You are, after all, not only contributing to your profession but, in all probability, toward your own livelihood.

Checks of any amount should be made out to: The Foundation for American Archaeology, and sent to: Society for American Archaeology, 808 17th St, NW, Suite 200, Washington, D.C. 20006.

## SAA Succeeds in Congress

by  
Loretta Neumann and Kathleen Reinburg  
SAA Office of Government Relations

Money and reburial have headed the list of issues Congress has been tackling over the last several months. The latter is discussed in detail by Keith Kintigh in this issue of the Bulletin (see page 1, "Reburial and Repatriation"). The following summarizes some of the issues for which the SAA has been lobbying.

SAA achieved several major successes in the fiscal 1990 appropriations for Interior and Related Agencies. In a year with tight fiscal constraints placed on legislators, the outcome for cultural resource protection programs in the federal agencies was surprisingly good. SAA sought and obtained \$18.2 million for the Forest Service cultural resource management programs. This is an increase of over \$2 million compared to last year. The Historic Preservation Fund was increased to \$32.75 million. Last year it received \$30.5 million. Special add-on funds were provided for several programs. The National Park

Service was given \$500,000 to pursue anti-looting efforts in the National Park Service and \$100,000 to begin preservation technology transfer. The Bureau of Land Management was provided \$200,000 for cultural resource law enforcement in the four corners area.

In addition, the Senate included language in the National Science Foundation appropriations report which encourages NSF to provide funds for archaeology research within the biological, behavioral and social science directorate. This is the first time that archaeology has been mentioned in the appropriations report and we hope to gain support for increases in funding of archaeology at NSF.

Senator Fowler (D-GA) introduced S. 1579, National Historic Preservation Policy Act on August 4. It would amend the National Historic Preservation Act, Historic Sites Act, Archaeological Resources Protection Act, and the Abandoned Shipwreck Act to strengthen the protection of historic heritage and resources, provide for treatment of human remains, develop training and education programs, strengthen state and tribal preservation programs, develop certification for archaeologists, and implement an artifact registration system. In addition, Senator Fowler introduced S. 1578, to create an independent historic preservation agency and national center for preservation technology. SAA worked on a number of provisions in these two bills to improve them with respect to archaeology.

The SAA testified in support of expanding the Chaco Protection System (S. 798) and establishing the Petroglyph National Monument in New Mexico (S. 286); designating the Amistad National Recreation Area in Texas (H.R. 967), reauthorizing the Bureau of Land Management programs (H.R. 828), and establishing the National Museum of the American Indian (H.R. 2668 and S. 978).

For information on these and other bills, call the Congressional Bill Status office, (202) 225-1772. To obtain copies of House bills call (202) 225-3456 or write to House Document Room, H-226 Capitol, Washington, DC. 20515. For Senate bills, write to Senate Document Room, SH-B04 Hart, Washington D.C. 20510.

## Dues Increase Crucial to Future

The Society for American Archaeology is financially sound. Now that we have finished the long range study of the Society and have a new set of Bylaws strongly endorsed by the membership, we are in a position to build for the next decade and more. Much of the dues increase announced in the last Bulletin will go to help build

THE HRDLICKA LEGACY AND KONIAG SPIRITS

by

Gordon L. Pullar  
Past President, 1983-1989  
Kodiak Area Native Association

Presented at the

CIRCUM-PACIFIC PREHISTORY CONFERENCE  
August 2-6, 1989  
Seattle, Washington

THE HRDLICKA LEGACY AND KONIAG SPIRITS  
BY  
GORDON L. PULLAR

During the 1930's Ales Hrdlicka, the curator of the Division of Physical Anthropology of the U.S. Museum of Natural History at the Smithsonian Institution, removed some 812 skeletal remains of the Native people from Kodiak Island, Alaska. The majority of the skeletons were taken from the village of Larsen Bay and are currently unceremoniously stored in the Smithsonian's Museum of Natural History where they make up a portion of the 18,500 Native American skeletons the Smithsonian holds (Lowen, 1988, Preston, 1989, Spotted Elk, 1989). Intensified efforts are now underway by the Native people of Kodiak Island to have the remains of their ancestors returned to the island for reburial. The effort, led by the village of Larsen Bay and the island-wide Kodiak Area Native Association, has thus far been rebuffed by the Smithsonian that claims, just as it has in other requests, that the skeletons are needed for scientific study (Brookes, 1988).

Recent scientific evidence suggests that Native people have inhabited Kodiak Island, Alaska, for nearly 8,000 years (Jordan, 1987:4). The first contact with western Europeans came just over two hundred years ago with the sighting of Kodiak Island from a Russian ship in 1761 and the first Russian settlement there in 1783 (Hrdlicka, 1944). At the time of this first contact with the Russians, there were 65 villages on the island (Tikhmeniev,

1861, from Hrdlicka, 1944) occupied by the Koniagmiut or Koniags, the island's aboriginal people. Today, there are six Koniag villages in the Kodiak Island group. They are Akhiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie and Fort Lions. Additionally, the town of Kodiak contains a Native community (Davis, 1984: 199). The estimated population of Koniags on Kodiak Island today is 2,500.

The Koniag village of Larsen Bay is located on the small bay of the same name which branches off the much larger Uyak Bay on the west coast of Kodiak Island. The current population of the village is 217 (Kodiak Area Native Association, 1988 Annual Report). A large salmon cannery was built in Larsen Bay in 1888 (Roppel, 1986) and continues in operation today. The village is governed by a tribal government with an elected council. A second class municipal government was also formed under the laws of the State of Alaska. A village corporation, Nu-Nacht-Pit, Inc., was established under the Alaska Native Claims Settlement Act of 1971, but ceased to exist in 1980 when it merged with the regional corporation, Koniag, Inc.

In 1926, Ales Hrdlicka, under the auspices of the Smithsonian Institution, undertook an anthropological survey of Alaska (Hrdlicka, 1944:1). His efforts ended with the 1938 summer season. Beginning in 1931 and ending in 1937, he excavated in the village of Larsen Bay (Hrdlicka, 1944:1 & 140). His stated

purpose of these excavations "was to secure the skeletal materials which the site evidently contained." (Hrdlicka, 1944:140). The purpose of the entire Alaska survey was, in Hrdlicka's words, "to learn whatever might still be possible about the living remnants of the native populations, and to gather skeletal remains that would supplement the study of the living . . ." (Hrdlicka, 1944:1). It is quite apparent that he viewed Native people as being on the road to extinction. He would, undoubtedly be very surprised that Larsen Bay is still a thriving Native community.

While Hrdlicka's name has long been prominent in the field of physical anthropology, it appears that his formal education in anthropology was limited to four months in Paris in 1896 (Stewart, 1940:8). Hrdlicka, born in Bohemia in 1869, immigrated to New York with his father in 1882 (Stewart, 1940:4). He graduated from Eclectic Medical College in New York in 1892 and from the New York Homeopathic Medical College in 1894 (Stewart, 1940:6-7). His first actual fieldwork in anthropology came in 1899 when he was given charge of the physical and medical anthropological research on the Hyde Expedition to the American Southwest and Mexico for the American Museum (Stewart, 1940:11). In 1903, he was appointed to be in charge of the new Division of Physical Anthropology at the Smithsonian (Stewart, 1940:12, Hinsley, 1981:281).

It was while he was under the employ of the American Museum of Natural History in New York that the first stark signs appeared of what would become a lifelong relationship between Hrdlicka and the dead of Native peoples. The arctic explorer Robert Peary brought back six Eskimos to New York from Greenland and left them at the American Museum (Harper, 1986:34, Preston, 1989). Four of the six soon became ill and died and Hrdlicka, in collaboration with the famed anthropologist, Franz Boas, found the opportunity to study the same Native people both in life and in death (Preston, 1989, Harper, 1986). Hrdlicka had the four Eskimos, that he had measured and photographed in life, boiled so that their flesh could be removed from their skeletons (Preston, 1989). One of the deceased, Qisuk, was the father of Minik, who, at age eight, was one of the survivors. A fake funeral and burial was staged for the benefit of Minik and it was some years later that he made the shocking discovery of his father's skeleton on display at the museum (Harper, 1986:97). A final indignity for Qisuk was that Hrdlicka saved his brain and in 1901 published an article on it, complete with photographs, titled "An Eskimo Brain" (Harper, 1986:97). This article was just the first of several with ghoulish titles such as "New Examples of American Indian skulls with low forehead" (1908), "Catalogue of Human Crania in the U.S. National Museum", (1925), and forty years later, "Diseases of and artifacts on skulls and bones from Kodiak

Island" (1941a) and "Artifacts on human and seal skulls from Kodiak Island" (1941b).

While Hrdlicka's work of digging up Native burials may often be referred to as archaeology, it appears that even he set himself aside from that discipline saying, "And it is hoped also that our archaeological friends will no longer stand aloof, as so often in the past, but will collaborate with us to rescue not alone the evidence of man's activities, but the precious skeletal remains encountered in their excavations of ancient historic sites." (1919). Even though archaeology was a young and developing discipline at the time of Hrdlicka's digging on Kodiak Island, his techniques of excavation were inadequate even by the standards of the time (Jordan, 1987:8).

Hrdlicka seemed to feel that lack of organized objection from the Natives implied permission to remove the remains of their dead. He also claimed that he was taking only very old remains which he reasoned the Natives would not care about anyway. He said the collecting of the skeletons was ". . . carried on with the full knowledge of the natives and often in their view with their assistance. They were told that I wanted only the old "heathen" remains in which no living person had any interest; that the bones were needed for studies and for comparisons of the development, the type, and the diseases of the old with those of the present people; and that they would be treated with all

possible consideration" (1931:125).

Once again, Hrdlicka's concepts of "old" or prehistoric certainly differed from those of professional archaeology. While archaeologists speak in terms of hundreds or thousands of years, Hrdlicka's "old" was much more recent. In one incident that took place in a Yukon River Village, that he described in two different publications, he removed the skeleton of a man buried in a grave under a Russian Orthodox cross marker. He estimated the man to have been dead for thirty years (1930:139, 1943:235). In one of the descriptions of the incident, he said, "But just as the parts were all gathered, I saw below (the grave was on a slope) an old woman who appeared to be provoked at something and was talking to herself rather loudly. On sending the Indian who accompanied me down to see what the trouble was, I learned that the old woman claimed the bones to be those of her long departed husband . . ." (1930:139). Hrdlicka then put the skeleton back and "covered as well as possible" (1943:235) which he said was "to the complete satisfaction of the old dame . . ." (1930:139). Hrdlicka obviously did not always have the permission he claimed to have.

And indeed, Hrdlicka himself published accounts of secretly stealing and concealing skeletons from interior Alaska villages. (1930b:55). He also speaks of some remains he excavated and upon opening the coffins found them to be "too fresh yet" (1930:76)

and of other cases where he did take remains that still had "soft parts". (1930b:58).

So what was Ales Hrdlicka? . . . scientist? grave robber? . . . racist? There is evidence in his writings to suggest that he had a concern for preserving the purity of the white race. In 1919, he wrote, "The paramount scientific object of Physical Anthropology is the gradual completion, in collaboration with the anatomist, the physiologist, and the chemist, of the study of the normal white man living under ordinary conditions," (1919:22). He stated further, "Associated with racial studies, but of more direct and serious concern to many nations, particularly the American, are investigations into the physical, physiological, and intellectual effects of racial mixtures on progeny. Mixture of colored races with the white are largely controllable by law and general enlightenment, and if found detrimental could be reduced to a minimum. In the United States we are confronted on the one side with the grave problem of mixture of white and negro, and on the other with that of white and Indian" (1919:24).

Further, but more subtle, evidence of Hrdlicka's attitude is found in his book, The Anthropology of Kodiak Island (1944), where he capitalizes the word "White" in white man but does not capitalize the word "Native". (P. 127, 136, 153). Also in his writings on his Alaska experiences, he praises white people,

crediting them by name, for assistance given, but does not mention many Natives by name. There is rare mention of the Native residents of the village of Larsen Bay even though he spent six summers digging there.

Hrdlicka names the site of the Larsen Bay excavations Jones Point in honor of Laura Jones, the wife of the local cannery superintendent who helped in the excavations (1932:99). In a rare mention of the local Native residents, he expressed concern for leaving some equipment behind over the winter as it would be at the "mercy of nearby mixbreeds" (1944:318). Other writings such as an article for Good Health Magazine titled, "A danger to the American people from assimilation of the colored population" (March 9, 1928) seem to confirm his belief in white superiority.

The Smithsonian has agreed to return the remains of Native American individuals to tribes if they could be identified by name or if they were taken illicitly (Adams, 1987, Lowen, 1988, Robbins, 1988). As the customs of prehistoric Koniag differed from those of western societies, there are no gravestones or burial records identifying by name those who died so long ago. Just the same, the Koniag people of today know that these are the remains of their ancestors and do not need specific names attached to them to know they must be treated with respect. To the pre-contact Koniag, death did not represent an end of interpersonal relationships as the dead were kept close by in the sealed

off siderooms of their semi-subteranean houses, called barabaras (Clark, 1984, from Merck, 1980:108).

The Smithsonian maintains that Hrdlicka had permission to remove the skeletons from Larsen Bay and that local Natives actually assisted him in the excavations (letters from A. Kaepler, Smithsonian, to Larsen Bay Tribal Council, Sept. 25, 1987 and Feb. 16, 1988). The people of Larsen Bay vigorously dispute this (letters from Larsen Bay Tribal Council President, Frank Carlson, to A. Kaepler, October 27, 1987, and April 15, 1988). Dora Aga, the matriarch of Larsen Bay, remembers Hrdlicka well. In response to the Smithsonian's claim that local Natives assisted Hrdlicka, she exclaimed, "No way! He wouldn't let nobody get near that place!" (personal interview July 18, 1989). The Smithsonian also claims that no one objected to his work at Larsen Bay (Kaepler letter, Feb. 16, 1988). This claim also infuriates Dora Aga, who said several people, including herself, objected. "I called him every name in the book," she said, "Him and I were no friends at all" (personal interview July 18, 1989).

When considering whether or not permission was given to Hrdlicka to remove skeletons from Larsen Bay, it must be asked who in the village had authority to give such permission. According to Dora Aga, there was no one with such authority. Who could have the authority to give away the remains of his or her ancestors? It must also be realized that the intimidation factor

of a group of white men from Washington, D.C. coming into a remote 1930's Alaska Native village must have been tremendous. "We were green in them days," said Dora Aga, "we didn't know anything about laws" (personal interview July 18, 1989).

Due to the stance the Smithsonian has taken on the issue of repatriation of human remains to Native groups, there may be just two options available to the Natives of Larsen Bay and Kodiak Island. One is to hope for a legislative cure. Thus far such legislation has been unsuccessful. There is, however, legislation pending in Congress that would provide some remedy. These bills are H.R. 1646, the "Native American Grave and Burial Protection Act"; H.R. 1381, the "Native American Burial Preservation Act of 1989" and H.R. 1124, the "Indian Remains Reburial Act".

Another possibility is legal action, challenging the Smithsonian's legal right to hold the remains. Steps are currently being taken by Larsen Bay Tribal Council to pursue this legal avenue with the assistance of the Native American Rights Fund, a national Native American legal advocacy organization.

The struggle of Kodiak Island's Native people to have the remains of their ancestors returned for reburial is of even greater significance than the need to respect the dead. The Native population of Alaska is undergoing an epidemic of self-destruction, including alcohol and drug abuse, family violence and suicide (AFN, 1989) and Kodiak Island is no exception. One

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of the fundamental causes for this epidemic is the disintegration of traditional cultures and the resulting loss of self-esteem (G. Pullar, testimony, U.S. Senate Select Committee on Indian Affairs, March 3, 1989). If young Native individuals are led to believe that it is acceptable and proper for the government of the United States to "own" the bodies of their grandfathers, grandmothers and other ancestors, then how can they possibly believe that they are equal to all others in this country?

Frank Carlson, the president of the Larsen Bay Tribal Council, in his plea to the Smithsonian for the return of the ancestral remains, wrote, "These studies have been going on for over fifty years and we believe it is time to return the skeletal remains to Larsen Bay. We believe you would not invade non-Native grave sites in this manner. Are they not worth study? (letter to A. Kaepler, Smithsonian, April 15, 1988).

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**UNIVERSITY OF ALASKA FAIRBANKS****Department of Anthropology**  
Fairbanks, Alaska 99775

February 7, 1990

Representative Cliff Davidson  
Alaska House of Representatives  
Room 108 Capital  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Davidson,

I am writing you with reference to House Bill 436. This proposed Bill offers a fine opportunity to engage the citizens of this state in a dialogue about the protection, preservation, and understanding of the historical and archaeological resources of the state. As one who has committed 20 years of my own professional career to Native culture heritage issues, I welcome the opportunity this bill presents.

Nevertheless, the bill, as it is currently worded, seems to raise serious management issues and does not seem to be entirely in the best interest of the Native community, nor in the best interest of many institutions and individuals who are struggling to preserve, protect and understand the culture heritage of this state.

Without going into any details, I would like to relate briefly to you my experience on Kodiak which extends back nearly a decade and has resulted in a fine partnership with KANA, as well as with many Native people residing in Kodiak's villages. I began serious archaeological investigation of the Native history in 1983. From its inception this research project was conceived as a working partnership with Native residents of the island. To the best of my knowledge, this relationship has been very successful and been of benefit to all parties concerned.

With respect to human skeletal material, an agreement was reached early in the project's history with both KANA and people in the relevant villages. Although the goal of our research was never targeted toward the recovery of human skeletal material, we did stumble across human remains in the course of excavating village sites. The solution reached was simple. We were allowed to excavate human remains with care and respect; we were allowed to study the remains in a non-destructive fashion; and we reburied the remains according to the wishes of the local residents. I believe that this case history demonstrates that satisfactory middle ground can be easily reached for the benefit of all concerned parties.

I suggest that this bill needs some rewording. I believe that this can best be done by delaying the legislative hearings so that all concerned parties can provide thoughtful input. In addition, I suggest that a "blue ribbon" commission be established to provide the legislature with the wisest possible counsel.

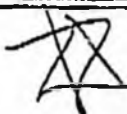
Sincerely,

Richard H. Jordan  
Chair and Professor of Anthropology

# The Chugach

The Official Publication of Chugach Alaska Corp

Vol. 16 No. 5



## Chugach Man; symbolic of effect oil spill is having on the people

He had no cavities, not unusual for a person between 35 and 40 years old living in the area over 200 years ago. He stood five feet three inches. He had no contact with the Russians, British, Spanish or Americans who later came looking for riches - sea otter and seal pelts, salmon, herring and later gold. When he died, the people of his village honored him by placing his remains in a cave high above

the waters of Knight Island. He was a Chugach man and he rested in peace, undisturbed by the turbulences of the last two hundred years - until the oil spill.

As the oil from the *Exxon Valdez* spread throughout Prince William Sound, so did thousands of cleanup workers. The workers did more than attempt to clean the beaches. They went upland, often onto Chugach and village corporation lands. Historical sites long protected by the fact that their locations were unrecorded by federal or state agencies were now being "discovered."

By the middle of June scores of VECO, Norcon and Exxon workers were tres-

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# Chugach Man

(continued from page 1)

passing on ancient burial sites, including the one on Knight Island.

The workers did much more than trespass. As a result of their invasion, this sacred burial cave and village was desecrated by workers trampling over this fragile pre-historic environment.



Ilene Totemoff attends the reburial service.

"We believe Exxon was negligent for not surveying, monitoring and protecting this paramount historical site. The remains of this man were torn away from its resting place - bagged and tagged for observation in Anchorage." said CAC Chairman Edgar Blatchford.

The Chugach man was not the only one buried in the cave. But he was the only one carted away.

Reports of findings of skeletal remains circulated among workers and at the request of Exxon's lead archaeologist, Alaska state troopers responded. They arrived on the scene on June 24 and removed the remains to the crime lab in

Anchorage. Ten days later, by accident, the Chugach oil spill response team learned of the "rediscovery."

No-one in Chugach or the village corporations of Tatitlek and Chenega were notified. They should have been. Exxon was aware of CAC's policy on human remains, which states that: "Upon discovery of any human remains CAC is to be notified immediately and the remains are not to be disturbed unless directed by CAC".

Chugach responded in anger. Chugach could not - would not wait any longer for the slow wheels of a blundering bureaucracy to give its blessing to return the remains and to grant permission for a re-burial back at the place of its origin.

Chugach demanded that the remains be turned over immediately to the corporation, and thus they were.

Two months after oil spill workers violated his resting place, the Chugach man was finally returned to the burial site.

On August 14 a delegation from around the region, including Henry Makarka, Richard Stevens, Charles Selanoff, Sr., Peter Selanoff, Mike Eleshansky, Ilene Totemoff, Chris Borodkin, Edgar Blatchford, Gilbert Ollestad, Derenty Tabios, John Johnson, The Very Reverend Archpriest Nicholas Harris, Father Mark Luke, Lora Johnson and Jim Talerrico, accompanied the remains and quietly hon-

ored the Chugach man by burying him with the church's blessing. No outsiders were invited - not the media, not Exxon. However, since the burial was on national forest lands, a Forest Service observer was present.

Under federal law, historical sites are protected. But by the time the oil company learned the law, the Chugach man was disturbed - for the first time in two cen-



Charles Selanoff, Sr. on Knight Island.

turies. May he now, once again, rest in peace for ages and ages.

Father Harris gave this eulogy prior to reintering the Chugach Man.

*"Before we re-inter this man back into the earth and bless this coffin and place we must realize that God brought us to this place in the natural beauty of this island. In praying for him, we are asking God to bless all of those who have departed this life.*

*The people of this area were blessed by God to live the Orthodox life. Thus it is appropriate today to celebrate this service. When news came to us that this persons relics were disturbed we had to do something about it, CAC and its staff saw to it that an appropriate burial would be made.*

*This man we are to bury is a representative of all the people of this area, people who lived here for thousands of years. It was God's will that they live a most beautiful life then and it is His will that they live a most beautiful life now.*

*This wonderful place has been disturbed by that great oil spill that has affected all of our lives. We hope and pray that as time goes on that everything that has been disturbed will be restored and that this person who has been reinterred here will be a symbol of this. Although his grave has been disturbed now, he will now be placed back with DIGNITY, with HONOR and with RESPECT.*

*By honoring him, we honor everything which God has created. We must have respect for every living person, every living creature and every blade of grass that we walk on, because God reveals Himself in nature and in man, He is the God of the universe." ☩*



A small craft takes shareholders to the burial site.

# Oil Company Cancels Exhibit of Native Artifacts

by: Marilee Enge, Daily News reporter  
Anchorage Daily News  
Friday, August 18, 1989

An exhibit of aboriginal Native artifacts plucked from the oiled beaches of Prince William Sound and Kodiak Island was canceled by Exxon Corp. when Native leaders complained they were excluded from preparations for the show.

The quarrel came as Natives in the Sound were preparing to rebury ancestral remains removed by oil spill workers and points up conflicts between the massive cleanup of the nation's largest oil spill and the people who live on the oiled shores.

The exhibit of work by state and Exxon archaeologists during the cleanup of the March 24 oil spill was scheduled to go on display Monday at the Exxon headquarters in Valdez. It was canceled when Chugach Native Association leaders protested.

"Our concern is that we don't want those sites disturbed," said Edgar Blatchford, chairman of the organization.

"The only protection that Prince William Sound offered the ancestors of the Chugach people was that nobody knew about them. Now we have thousands of people out there. We have scientists, archaeologists, construction engineers and the media. We've opened a very private family vault and exposed everything to the world."

The display of about 30 stone tools and other objects from Kodiak and the Sound was organized quickly late last week. Exxon's chief archaeologist, Charles Mobley, said he began planning an educational exhibit on the company's cultural resources program last Thurs-

day. On Friday, someone suggested that the display be held Monday when a group of Exxon executives would be visiting.

"We tried to put it together in a short period of time," Mobley said. "It obviously wasn't enough time for the Native community to get behind it."

Officials with the Native association and village leaders from the Prince William Sound area learned about the display on Saturday. Village leaders from Eyak, Tatitlek and Chenega Bay were "very incensed" that Exxon had proceeded without consulting them, according to Blatchford.

"We've really had problems with vandalism for the past 10 years," said John Johnson, cultural resources manager for the Native association. "People are constantly dragging these artifacts out and putting them on their mantels."

"We try to keep specific sites confidential. We're into public information but not a big blitz. They just sprung this on us."

Mobley said he had no intention of publicizing specific sites and exposing them to looting or vandalism. The Natives did not understand that his program has been scrupulous in keeping such information secret, he said.

Besides displaying 30 or so objects gathered so far from the Sound and Kodiak, the exhibit would have explained how archaeologists gather information and how they try to prevent beach crews from damaging sites.

Mobley is quick to point out that collecting artifacts is only incidental to the other work by archaeologists and done as a last resort to protect the items from damage.

But when the Natives heard about Exxon's exhibit, they were already smarting from an earlier incident in which bones from an ancient burial site on Knight Island were removed.

Cleanup workers came upon the

bones June 22 and reported that they'd found fairly recent human remains in a cave far above the high tide mark, according to Mobley. An Alaska State Trooper stationed in Cordova went to the scene and collected the bones.

Exxon's contractors have been instructed to leave archaeological finds in place and inform Mobley's office of any discoveries. But a similar incident happened two weeks later on Kodiak where ancient skeletal remains were also removed.

The Knight Island bones were flown to the state crime laboratory in Anchorage where a physical archaeologist quickly determined that they were aboriginal, said lab director George Taft. The Chugach Native Association later took possession of the remains. On Tuesday, the villages

of the Sound held a religious reburial ceremony.

"Nobody likes their family graves unearthed and that is how we see it," said Blatchford.

"I think it was obvious the bones had been there for a few hundred years and there was no need to remove them. If

there was no body, only a few bones... it wouldn't have hurt to leave them for a few more days."

The archaeological exhibit has been postponed indefinitely. Blatchford said Chugach leaders might approve it later but he would not support a showing without full consent of the village elders.

"We didn't particularly care if it was a public showing open to one person or to everyone in Valdez," he said. "Among the elders of the Chugach region, there is a strong connection with the historic sites."

This is a family secret. It's valuable. It's important to us as a people to leave it for ourselves and for our future generations."

*Editor's note: This article refers to Chugach Native Association. It should be Chugach Alaska Corporation.*

**"We've really had problems with vandalism... People ... dragging these artifacts out and putting them on their mantels."**



## 4th All Chugach Summit...

### Facing a common enemy

It was reminiscent of land claims days. The Chugach People pulled together to face a common enemy - the desecraters of the Chugach region.

"We are family. This is our corporation. These are our people. That's why we have unity," Agnes Nichols told a hushed audience at a September meeting of the All-Chugach Summit Conference.

All of the village for-profit corporations were there. So were the village governments, The North Pacific Rim and Chugach Alaska.

The Chugach region was brought together by the *Exxon Valdez* oil spill, the biggest ever on the North American continent.

Nichols, the village chief of Eyak, was eloquent in her remarks. Though ailing, she moved gracefully on her two canes as she urged the delegates to work together

*(continued on page 2)*

It may remain  
personal one. I  
strength and  
increasingly cc



Photographs .....  
*When the Water  
Governor visits  
Fort Graham (phu  
Land Report —  
Corporate Oilspill  
Chugach Fish Dis  
All-Chugach Resol  
Alyeska Task Force  
Timeline Highlight  
Regional Oilspill &  
Quotes .....  
Native Artifacts &  
Fishermen's Catch ..  
Snapshots .....  
Oilspill Response Te  
Legal Reports .....  
Condolences .....  
Seward Sawmill .....*

# All-Chugach Summit

(continued from page 1)

and move forward together.

"I came because I felt I needed to be here. There's not many old timers left. We know everybody. We are family."

This All-Chugach Summit was the fourth conference since the March 24 grounding of the tanker on Bligh Reef. The summits were called by Edgar Blatchford, CAC chairman, in an effort to unite the region as the villages faced a multitude of state and federal agencies and the international media.

"We have to talk with each other and listen to the concerns and interests of our shareholders. Though we may have disagreements, that doesn't mean we can't have open communications. There are so many out there who want to divide us for their own selfish interests," the CAC chairman said.

At the fourth conference the delegates heard reports from the governor's office, the state oil spill coordinators office, and the state departments of Community and Regional Affairs, Fish and Game and Commerce and Economic Development. There were also speakers from the state historical preservation office and a consultant working on the Alyeska oil spill contingency plan.

It was a meeting to share information and reassure each other that the interests and concerns were mutually shared by the delegates.

"The Exxon/VECO efforts divided us. This is an opportune time to bring all of us together." Derenty Tabios, executive director of The North Pacific Rim said.

All of the communities of the region have been directly impacted by the oil spill. The subsistence lifestyle has been negatively affected as scores of villagers were unable to harvest herring roe, salmon, seal and other foods from the sea.

Hundreds of people were flying into the villages, putting pressure on community services from child care to hous-

ing, from police protection to sewage treatment.

"It's not over yet," said Blatchford. "There will be increased attention on Prince William Sound and the areas bordering Kenai Fjords National Park - Native corporations lands. Environmentalists will want to regulate or prevent Native business opportunities in fish, recreational development and timber harvesting. Every step of the way we will be watched. There's no turning back. The world has discovered the Chugach region."

On the first day of the spill CAC representatives were flying over the grounded tanker. Within days the regional corporation had opened an office in Valdez to work with Alyeska, Exxon, oil spill contractors, the state Department of Environmental Conservation, the U.S. Coast Guard, the federal Department of Transportation and numerous other agencies.

CAC was not geared up to handle an oil spill but as the oil spread from Bligh Reef, CAC moved to protect its interests.

Though primarily a fish, timber and development corporation, CAC had to immediately become an oil monitoring company forced to interface with hundreds of agency people.

Pressure from the village corporations and shareholders also necessitated Chugach Alaska taking a leadership role in protection of cultural resources and advocacy of shareholder-hire in the cleanup work. CAC also had to attempt to mitigate damages, so contract opportunities were seized such as camp catering and waste disposal.

All of this required open communications.

Exxon and VECO changed their plans almost daily, sometimes leaving Chugach in mid-stream such as the situation that developed over the proposed Chenega camp. VECO said put a camp in Chenega, then changed their minds.

In early May a call for a region-wide meeting went out. The first All-Chugach Summit was held in an attempt to keep everyone from being totally inundated with oil spill activities.

Chugach Alaska spent hundreds of thousands of dollars trying to protect Native interests. It wasn't until three months into the oil spill did Exxon approved the first reimbursements. The delay put severe financial strains on the corporation.

"We had a moral obligation to try to help as much as

we could.

But the only way we could succeed was if there was open communication. People just couldn't demand from Chugach, then go away without contributing anything to solving the problems. We had to work together. That's why these All-Chugach Summits were, and are, very important. If the affected parties don't participate, then you can't blame us for Native interests not succeeding," said Blatchford.

"We must never forget that the common enemy is not us. We're all shareholders. We should all want our corporation to succeed. Why would anyone want to cut off our nose to spite our face," Blatchford asked.

The September two-day conference ended on a high note with Dr. Nancy Yawes Davis, a noted anthropologist long familiar with the region, extolling the strengths of the Chugach People. She said there was "great strength" in the people who had overcome so many intrusions so many times before. "There's a wonderful resilience in the Chugach People." ☞

**"We are family.  
This is our  
corporation.  
These are our  
people. That's  
why we have  
unity,"**

*Agnes Nichols,  
Eyak Village Chief  
Sept. 11, 1989  
All-Chugach Summit*

# Anchorage Daily News

IV, NO. 340 110 PAGES

ANCHORAGE, ALASKA, WEDNESDAY, DECEMBER 6, 1989

## \$100 fine for Sound grave robber brings criticism from Native group

Cleanup worker who took bones from ancient site pleads no contest

By CHARLES WOHLFORTH  
Daily News reporter

An oil-spill cleanup worker who robbed an ancient Native grave in Prince William Sound last summer pleaded no contest to federal charges and was fined \$100 last month, angering Chugach Alaska Corp. Natives who say the penalty was too light.

The U.S. Forest Service, which prosecut-

ed the case, recommended the sentence and later refused to disclose the name of the grave robber to protect him from unwanted publicity. It announced the Nov. 14 sentence Tuesday.

Eugene F. Wall, 39, also received a suspended \$400 fine and a year of "infor-

Please see Back Page, FINE

## FINE: Sentence angers Native group

Continued from Page A-1

mal" probation from federal magistrate John Roberts in a brief hearing. Wall could not be reached for comment.

Forest Service archeologist John Mattson said the agency is not allowed to make plea bargains, but said, "I believe the convicted party was well aware of what penalty would be recommended to the magistrate before they ever went into court."

Mattson refused to reveal Wall's name, and a Forest Service press release left him unnamed.

"The lesson of promoting the respect for human remains would not be served by burning this individual," Mattson said. "We would like to use this for a positive standpoint."

Mattson also said that Wall cooperated with investigators and turned himself in when he found out taking the bones was a crime.

But University of Alaska Anchorage anthropology Professor David Yesner said he turned in Wall, a former student, when Wall shared his finds with him. He was sympathetic with Wall, but not as sympathetic as Mattson.

Yesner said Wall came to him with the bones, and other objects, with an interest in talking about them.

"I'm not sure how much wrongdoing he was actually admitting," Yesner said, "because he was enjoying the fact that he knew all these secret sites where he could get stuff in Prince William Sound."

Yesner asked Wall to bring him the human bones — six scattered skeletal pieces — then gave them to John Johnson, cultural resources manager for Chugach Alaska Corp. Johnson reported the find to the Forest Service, which obtained Wall's name from Yesner.

Yesner said he was reluctant to implicate Wall, and did so only after investigator Andrew Gifford said he hoped to uncover incidents of grave robbing by others by talking to Wall. Gifford could not be reached for comment, and Mattson said Gifford would not comment if he were reached.

Yesner said Wall told him collecting archaeological artifacts was widespread on the oil-spill cleanup.

"There was not a great deal of vigilance in terms of what people did," Yesner said Wall told him. "People were able to slip off and collect things. I told me that in the evening people would compare the bones and artifacts they had found."

But the director of Exxon's oil-spill cultural resource program, Charles M. Mobley,

said the company took pains to prevent grave robbing, and he said the Wall incident was an anomaly. He said Exxon-protected archaeological sites from workers by showing supervisors a 14-minute video on the subject and by distributing a memo that outlined criminal penalties for taking artifacts and threatened to turn in and immediately dismiss anyone who took them.

Mobley said the Forest Service could have charged Wall under the Archaeological Resources Protection Act, which provides felony sentences for grave robbing. Instead, Wall was charged with a misdemeanor under another statute.

Johnson said Chugach Alaska officials are angry because they think that the sentence is too light, and that the Forest Service sought to avoid releasing Wall's name.

"Making a press release like that is like saying, 'No problem. We won't give you any trouble,'" Johnson said. "It gives you a weird sense of feeling — that Native people aren't human or something. That you can go out and mess with their burial sites and they'll only fine you \$100."

Johnson said Wall, who he has never met, doesn't deserve a prison term, but should have been forced to do community service — he suggested work in a mortuary.

"They give him a \$100 fine," Johnson said. "That's got a lot of people here pissed, to say the least. If I went downtown and dug up some bones, I'm sure I'd get more than a \$100 fine."

Wall apparently removed the bones from a cave on Knight Island where they are thought to have lain for about 1,000 years. The cave was first found on July 4 by cleanup workers. Two days later an Alaska State Trooper from Cordova removed some bones as evidence of a possible murder, although they were surrounded by other ancient artifacts, and sent them to the state crime lab in Anchorage.

Johnson said he visited the cave and found that its contents had been trampled by cleanup workers.

The crime lab determined that the bones were ancient and they were reinterred in a Russian Orthodox ceremony in August. Then, in October, the bones Wall removed turned up. Johnson said the crime lab determined they were probably from the same skeleton as the bones that were already reinterred.

Johnson said the additional bones will be reinterred as soon as possible in the same cave.

"That's something the elders really stress," he said. "You don't keep them in a shoe box. You get them out there and put them back."

by Warren Jarvis certain  
for the Tundra Times cient  
and  
Last week, with a prayer said  
softly over a remote tomb, a man torn  
from his grave seven months ago was  
at last laid once again to rest.

This man was not the victim of a  
crime, brought forth to provide  
evidence against his killer. Nor had he  
been sought out for study to further the  
knowledge of man.

He was simply old.  
Most people hold in their hearts a

certain fascination for old things, an-  
cient objects which one can hold up  
and use to dream of times and events  
long gone. Problems arise, however,  
when the objects being collected are  
from burial sites — perhaps even the  
very bodies themselves.

In this case, the body was that of a  
man who lived about 200 years ago in  
what is today the Chugach area. When  
oil spread through Prince William  
Sound last spring, following quickly  
in its path were thousands of cleanup  
workers.

One of these workers, Eugene Wall,  
found a cave on Knight Island. It was  
a fairly large cave and held the remains  
of six people. Despite a 14-minute  
video and a handout given to crew  
supervisors, information said to have  
been passed on to the workers warn-  
ing them not to disturb artifacts, Wall  
removed several parts of one of the  
bodies.

On June 22, other oil spill workers  
found the cave and reported the

continued on page sixteen

## • Chugach bones reburied

continued from page one

disturbed remains. An Alaska State  
Trooper from Cordova visited the site  
two days later and removed some  
bones from the disturbed remains to  
be tested at the crime lab in  
Anchorage.

On Aug. 14, after the lab deter-  
mined the bones to be ancient artifacts  
and Chugach Alaska Corp. demanded  
their return, the bones taken by the  
State Troopers were reinterred in the  
cave with a small Russian Orthodox  
ceremony.

Wall's bones, however, were still  
missing. They included up to four ribs  
and two vertebrae.

Finally, in October, the missing  
bones surfaced. These are the bones  
laid to rest Jan. 15, and these are  
the bones which sparked many peo-  
ple's anger.

The anger over the theft was not on-  
ly in the act itself, but in the penalty  
Wall received for it. Rather than a  
possible \$10,000 fine and/or one year  
imprisonment under the National  
Historic Preservation Act, Wall was  
charged under a different law resulting  
in a fine of \$500, with \$400 sus-  
pended, and given an "informal" one  
year probation.

John Johnson, cultural resources  
manager for Chugach Alaska Corp.,  
said that such action amounted to tell-  
ing people that it was almost alright  
to dig up Native grave sites.

"The bottom line is that people  
think they're just curiosity pieces,"  
Johnson said. "If I went down to An-  
chorage's cemetery and just started  
digging, I bet I'd get more than just  
a hundred dollar fine."

And this is not, it seems, an isolated  
incident.

According to Judy Vittner, head of  
the History and Archeology Office for  
the state, the robbing of historical sites  
is a common occurrence in Alaska.

"In my estimation, yes, there is a  
problem. . . the practice is widespread  
by the look of the vandalized sites,"  
she said.

Vittner said that at present Alaska  
has more than 10,000 historical sites  
on the state inventory. Among the  
things needed to qualify as an  
historical site, Vittner said, is that it  
must be at least 50 years old, be  
significant for its association with the  
history of an area and have the poten-

tial to yield information about that time  
or place.

Despite having lasted for hundreds,  
perhaps thousands of years, the sites  
are easily harmed by souvenir hunters  
or those looking for artifacts to sell.

"Often the casual collector will just  
pick up things off the surface, whereas  
the amateur collector can cause a  
tremendous amount of damage by dig-  
ging," Vittner said.

A good example of this, Vittner  
said, is St. Lawrence Island. Formerly  
one of only a couple hundred national  
landmarks nationwide, she said, it lost  
that status due to vandalism and the  
taking of artifacts for souvenirs and  
sale.

Still, she does not believe stricter en-  
forcement would affect the situation  
very much.

"The state is so big that no one can  
police the whole state, so it has to get  
into the value system of the people."

Unless this happens, Vittner said, it  
is unlikely that such destruction of the  
past will end.



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# Tundra Times

Alaska's Oldest Statewide Newspaper

January 22, 1990

Vol. XXVII

ALTH BU

Original sponsor(s): REP. DAVIDSON, Hoffman, MacLean, Goll, Jacko,  
Collins, Grussendorf, Menard

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 436 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of Alaska Native  
7 unmarked burials."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 41.35.010 is amended to read:

10 Sec. 41.35.010. DECLARATION OF POLICY. It is the policy of the  
11 state to preserve and protect the historic, prehistoric, and archeo-  
12 logical resources of Alaska from loss, desecration, and destruction so  
13 that the scientific, historic, and cultural heritage embodied in these  
14 resources may pass undiminished to future generations. To this end,  
15 the legislature finds and declares that the historic, prehistoric, and  
16 archeological resources of the state are properly the subject of  
17 concerted and coordinated efforts exercised on behalf of the general  
18 welfare of the public in order that these resources may be located,  
19 preserved, studied, exhibited, and evaluated. The legislature also  
20 finds and declares that disinterred Alaska Native human remains or  
21 funerary objects should be returned to the tribe or cultural group  
22 whenever the tribal or cultural origins of the remains or objects are  
23 reasonably identifiable.

24 \* Sec. 2. AS 41.35.020 is amended to read:

25 Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC, AND ARCHEOLOGICAL  
26 RESOURCES; LOCAL DISPLAY. (a) Except as provided in (c) of this  
27 section, the [THE] state reserves to itself title to all historic,  
28 prehistoric, and archeological resources situated on land owned or  
29 controlled by the state, including tideland and submerged land, and

1 reserves to itself the exclusive right of field archeology on state-  
2 owned or controlled land. However, nothing in AS 41.35.010 - 41.35.-  
3 240 diminishes the cultural rights and responsibilities of persons of  
4 aboriginal descent or infringes upon their right of possession and use  
5 of those resources that [WHICH] may be considered of historic, prehis-  
6 toric, or archeological value.

7 (b) Although title to historic, prehistoric, and archeological  
8 resources is, except as provided in (c) of this section, in the  
9 state, local cultural groups may obtain from the state, or retain, for  
10 study or display, artifacts and other items of these resources from  
11 their respective cultures or areas if the committee created in AS  
12 41.35.110 finds that (1) the group has a durable building with wea-  
13 therproof and fireproof construction and humidity control and other  
14 factors necessary to serve as a museum that [WHICH] will assure safe  
15 preservation of the items, (2) the item sought to be obtained is not  
16 one for which there is an undue risk of damage during transportation,  
17 and (3) the item sought to be obtained or retained is not one requir-  
18 ing special treatment or care beyond the ability or means of the group  
19 requesting it. A group retaining such an item or obtaining one from  
20 the state shall house it in the museum building and shall make every  
21 reasonable effort to assure its safe preservation. If the committee  
22 finds that a local cultural group is not properly taking care of an  
23 item the group shall return it to the department.

24 \* Sec. 3. AS 41.35.020 is amended by adding a new subsection to read:

25 (c) Title to historic, prehistoric, and archeological resources  
26 that consist of disinterred Native human remains or funerary objects  
27 lies in the tribe or cultural group from which the remains or objects  
28 originated when the origins are reasonably identifiable.

29 \* Sec. 4. AS 41.35.030 is amended to read:

1           Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES.

2           Upon the recommendation of the committee, the governor may declare by  
3 public order any particular historic, prehistoric, or archeological  
4 structure, deposit, site, or other object of scientific or historic  
5 interest that is situated on land owned or controlled by the state to  
6 be a state monument or historic site, and the governor may designate  
7 as a part of the monument or site as much land as is considered neces-  
8 sary for the proper access, care, and management of the object or site  
9 to be protected. When an object or site is situated on land held in  
10 private ownership, it may be declared a state monument or historic  
11 site in the same manner, with the written consent of the owner. When  
12 a site includes Native human remains or funerary objects for which the  
13 tribal or cultural origins are reasonably identifiable, the site may  
14 not be designated as a state monument or historic site without the  
15 written consent of the tribe or cultural group from which the remains  
16 originated.

17 \* Sec. 5. AS 41.35.040 is amended to read:

18           Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONU-  
19 MENTS AND HISTORIC SITES. State-owned monuments, sites, and other  
20 historic, prehistoric, or archeological properties owned or purchased  
21 by the state are under the control of the department, and their main-  
22 tenance shall be covered in the appropriations made to the department.  
23 Privately owned state monuments or historic sites are eligible to  
24 receive state support for their maintenance, restoration, and reha-  
25 bilitation if they are kept accessible to the general public, they are  
26 in compliance with state laws pertaining to Native human remains and  
27 funerary objects, and application for support is made in conformity  
28 with regulations adopted by the commissioner.

29 \* Sec. 6. AS 41.35.060 is amended to read:

1           Sec. 41.35.060. POWER TO ACQUIRE HISTORIC, PREHISTORIC, OR  
2 ARCHEOLOGICAL PROPERTIES. (a) The department, with the recommenda-  
3 tion of the committee, may acquire real and personal properties that  
4 have statewide historic, prehistoric, or archeological significance by  
5 gift, purchase, devise, or bequest. If the department acquires disin-  
6 terred Native human remains or funerary objects under this subsection,  
7 it shall return the remains or objects to the tribe or cultural group  
8 from which they originated if the tribe or group is reasonably identi-  
9 fiable. The department shall preserve and administer property so  
10 acquired. The department may acquire property adjacent to the proper-  
11 ty having historic, prehistoric, or archeological significance when it  
12 is determined to be necessary for the proper use and administration of  
13 the significant property.

14           (b) If an historic, prehistoric, or archeological property that  
15 [WHICH] has been found by the department, upon the recommendation of  
16 the committee, to be important for state ownership is in danger of  
17 being sold or used so that its historic, prehistoric, or archeological  
18 value will be destroyed or seriously impaired, or is otherwise in  
19 danger of destruction or serious impairment, the department may estab-  
20 lish the use of the property in a manner necessary to preserve its  
21 historic, prehistoric, or archeological character or value. If the  
22 owner of the property does not wish to follow the restrictions of the  
23 department, the department may acquire the property by eminent domain  
24 under AS 09.55.240 - 09.55.460. This subsection does not apply to  
25 real property containing Native human remains or funerary objects if  
26 the property is owned by the tribe or cultural group from which the  
27 remains originated.

28 \* Sec. 7. AS 41.35.070(d) is amended to read:

29           (d) If in the course of performing [PUBLIC] construction or

1 improvements, historic, prehistoric, or archeological sites, loca-  
2 tions, remains, or objects are discovered, the department shall be  
3 notified and its concurrence shall be requested in continuing the  
4 construction or improvement. Upon receipt of this notice, the depart-  
5 ment shall survey the area to determine whether the area contains  
6 historic, prehistoric, or archeological data that [WHICH] should be  
7 preserved in the public interest. The survey shall be conducted as  
8 expeditiously as possible. If, as a result of the survey, it is  
9 determined that (1) this data exists in the area, (2) the data has  
10 exceptional historic, prehistoric, or archeological significance [,]  
11 and should be collected and preserved in the public interest, and (3)  
12 it is feasible to collect and preserve the data, the department shall  
13 perform the necessary work to collect and preserve the data. This  
14 work shall be performed as expeditiously as possible.

15 \* Sec. 8. AS 41.35.070 is amended by adding a new subsection to read:

16 (h) If the department determines during a survey under (d) of  
17 this section that the historic, prehistoric, or archeological re-  
18 sources discovered include human remains, the department shall notify  
19 the nearest law enforcement agency. If the department determines that  
20 the resources include Native human remains or funerary objects for  
21 which the tribal or cultural origins are reasonably identifiable, the  
22 department shall also notify the appropriate tribe or group about  
23 their discovery. After collection under (d) of this section and  
24 appropriate investigation or other action by law enforcement author-  
25 ities, Native human remains and funerary objects shall be returned to  
26 the tribe or cultural group of origin if the appropriate tribe or  
27 cultural group is reasonably identifiable.

28 \* Sec. 9. AS 41.35 is amended by adding a new section to read:

29 Sec. 41.35.075. DISCOVERY OF HUMAN REMAINS OR FUNERARY OBJECTS.

1 (a) A person who encounters human remains or funerary objects in or  
2 on the ground, other than in a situation covered under AS 41.35.070,  
3 shall

4 (1) immediately cease any activity that may cause further  
5 disturbance of the area; and

6 (2) report the presence and location of the remains and  
7 objects to the department as soon as possible considering the location  
8 of the discovery and the availability of communication alternatives.

9 (b) Upon receiving a report under (a) of this section, the  
10 department shall promptly notify the landowner on whose property the  
11 remains or objects were discovered, the Department of Public Safety or  
12 other appropriate law enforcement agency, and the Historic Sites  
13 Advisory Committee.

14 (c) Upon notification under (b) of this section and completion  
15 of related law enforcement activities, the committee shall assist the  
16 department in determining if the remains or objects are historic,  
17 prehistoric, or archeological resources of Native origin. If they are  
18 historic, prehistoric, or archeological resources of Native origin and  
19 it is feasible to collect and preserve them, the department shall  
20 perform the necessary work or issue a permit under AS 41.35.080 for  
21 their collection.

22 \* Sec. 10. AS 41.35.080 is amended to read:

23 Sec. 41.35.080. PERMITS. The commissioner may issue a permit  
24 for the investigation, excavation, gathering, or removal from the  
25 natural state [,] of any historic, prehistoric, or archeological  
26 resources of the state or Native human remains or funerary objects  
27 discovered under AS 41.35.070 or 41.35.075. A permit may be issued  
28 only to persons or organizations qualified to make the investigations,  
29 excavations, gatherings, or removals and, except as otherwise provided

1        in this section, only if the results of these authorized activities  
2        will be made available to the general public through institutions and  
3        museums interested in disseminating knowledge on the subjects involved  
4        or returned to the tribe or cultural group of origin. If the his-  
5        toric, prehistoric, or archeological resource involved is one that  
6        [WHICH] is, or is located on a site that [WHICH] is, sacred, holy, or  
7        of religious significance to a cultural group, the consent of that  
8        cultural group must be obtained before a permit may be issued under  
9        this section. If the resource is or contains Native human remains or  
10       funerary objects for which the tribal or cultural origins are reason-  
11       ably identifiable, the consent of that tribe or cultural group must be  
12       obtained before a permit may be issued under this section. At the  
13       request of the reasonably identifiable tribe or cultural group, infor-  
14       mation related to Native human remains or funerary objects may not be  
15       disseminated to anyone other than the tribe or cultural group, except  
16       when required for law enforcement activities. If the resource con-  
17       tains human remains, the consent of the Department of Public Safety  
18       must also be obtained before a permit may be issued under this sec-  
19       tion.

20       \* Sec. 11. AS 41.35.090 is amended to read:

21                Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any  
22        construction, alteration, or improvement of any nature is undertaken  
23        on a privately owned, officially designated state monument or historic  
24        site by any person, the person shall give the department three months'  
25        [MONTHS] notice of intention to construct on, alter, or improve it.  
26        If the construction, alteration, or improvement involves Native human  
27        remains or funerary objects for which the tribe or cultural group of  
28        origin is reasonably identifiable, the person shall also give the  
29        tribe or cultural group three months' notice of intention to

1 construct, alter, or improve. Before the expiration of the three-  
2 month notification period, the department shall either begin eminent  
3 domain proceedings under AS 41.35.060(b) or undertake or permit the  
4 recording and salvaging of any historic, prehistoric, or archeological  
5 information considered necessary.

6 \* Sec. 12. AS 41.35.100 is amended to read:

7 Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC,  
8 OR ARCHEOLOGICAL REMAINS ON PRIVATE LAND. Before any historic, pre-  
9 historic, or archeological remains are excavated or removed from  
10 private land by the department, the written approval of the owner  
11 shall first be secured. If the remains include human remains, the  
12 written approval of the Department of Public Safety shall also first  
13 be secured. In the case of Native human remains or funerary objects  
14 for which the tribe or cultural group of origin is reasonably identi-  
15 fiable, the department must also secure the prior approval of the  
16 tribe or cultural group. When the value of the private land is dimin-  
17 ished by the excavation or removal, the owner of the land shall be  
18 compensated for the loss at a monetary sum mutually agreed on by the  
19 department and the owner or at a monetary sum set by the court.

20 \* Sec. 13. AS 41.35 is amended by adding a new section to read:

21 Sec. 41.35.105. DISPOSITION OF NEWLY-DISCOVERED NATIVE HUMAN  
22 REMAINS AND FUNERARY OBJECTS. (a) Whenever historic, prehistoric, or  
23 archeological resources are discovered under AS 41.35.070 - 41.35.100,  
24 the department shall notify the committee. If the resources include  
25 human remains, the department shall also notify the Department of  
26 Public Safety or other appropriate law enforcement agency. After law  
27 enforcement activities related to the resources have ceased or permis-  
28 sion to investigate has been received from the Department of Public  
29 Safety, the committee shall assist the department in determining

1 whether the resources include Native human remains or funerary ob-  
2 jects. If the resources include Native human remains or funerary  
3 objects, the department and committee shall determine with as much  
4 specificity as possible the tribal or cultural origin of the remains  
5 or objects.

6 (b) If the Native human remains and funerary objects are reason-  
7 ably identifiable, the person in possession of them shall notify the  
8 appropriate tribe or cultural group and return them to the descendants  
9 of the individual, tribe, or cultural group, as the case may be, upon  
10 request of the appropriate party unless

11 (1) title to them has been transferred to the person by the  
12 appropriate tribe or cultural group; or

13 (2) law enforcement authorities retain possession for the  
14 purpose of law enforcement activities.

15 (c) If there is no evidence available to indicate the tribal or  
16 cultural origins of Native human remains or funerary objects examined  
17 under this section, the person who lawfully possessed them before they  
18 were examined under this section remains in lawful possession of them  
19 until evidence of their origin becomes available unless possession is  
20 demanded by appropriate law enforcement authorities for the purpose of  
21 law enforcement activities.

22 \* Sec. 14. AS 41.35.200(d) is amended to read:

23 (d) A [AN] historic, prehistoric, or archeological resource that  
24 [WHICH] is taken in violation of this section shall be seized by any  
25 person designated in AS 41.35.220 wherever found and at any time.  
26 Objects seized may be disposed of as the commissioner determines by  
27 deposit in the proper public depository except that Native human  
28 remains and funerary objects shall be disposed of under AS 41.35.105.

29 \* Sec. 15. AS 41.35.220 is amended by adding a new subsection to read:

1 (b) Notwithstanding other provisions of this chapter, a person  
2 described in (a) of this section may, without a permit from the de-  
3 partment or consent from a tribe or cultural group of origin, lawfully  
4 possess, remove, transport, and alter a historic, prehistoric, or  
5 archeological resource for the purpose of law enforcement activities.

6 \* Sec. 16. AS 41.35.230 is amended to read:

7 Sec. 41.35.230. DEFINITIONS. In AS 41.35.010 - 41.35.240,  
8 unless the context otherwise requires,

9 (1) [REPEALED

10 (2)] "committee" means the Historic Sites Advisory Commit-  
11 tee;

12 (2) "funerary objects" means items that are reasonably  
13 believed to have been intentionally placed with the remains of a  
14 Native, either at the time of burial or interment or at some subse-  
15 quent time, as a part of the death rites or ceremonies of a culture;

16 (3) [REPEALED

17 (4)] "historic, prehistoric and archeological resources"  
18 includes deposits, structures, ruins, sites, buildings, graves, arti-  
19 facts, fossils, or other objects of antiquity which provide informa-  
20 tion pertaining to the historical or prehistorical culture of people  
21 in the state as well as to the natural history of the state;

22 (4) "Native" means a person who is a descendant or ancestor  
23 of the aboriginal races inhabiting the state when it was annexed to  
24 the United States or a descendant or ancestor of an Indian or Eskimo  
25 who, after the year 1867, migrated into the state from Canada;

26 (5) "reasonably identifiable" means identifiable, by a  
27 preponderance of the evidence, as to individual, familial, tribal, or  
28 cultural origin based on available archeological, historical, ethno-  
29 logical, or other direct circumstantial evidence or expert opinion;

1                   (6) "tribe or cultural group" means a tribe defined or  
2 established under 25 U.S.C. 461 - 492 (Indian Reorganization Act), as  
3 supplemented by the Alaska Native Act, an Alaska Native village de-  
4 defined in or established under 43 U.S.C. 1601 - 1641 (Alaska Native  
5 Claims Settlement Act), or a corporation or other group designated by  
6 a tribe or Native village to act for the tribe or village under this  
7 chapter.

8       \* Sec. 17. DISPOSITION OF ITEMS ALREADY HELD. (a) A person who on the  
9 effective date of this Act is in possession of historic, prehistoric, and  
10 archeological resources that consist of Native human remains or funerary  
11 objects, other than a member of a tribe or cultural group from which the  
12 remains or objects originated, shall, within 30 days after the effective  
13 date of this Act, notify the Department of Natural Resources and the De-  
14 partment of Public Safety of the existence and location of the remains and  
15 objects. Within 120 days after the effective date of this Act, the person  
16 shall, unless prohibited by appropriate law enforcement authorities,

17                   (1) determine the tribal or cultural origins of the remains and  
18 objects with the most specificity possible and notify the tribe or cultural  
19 group of the existence of the remains and objects; or .

20                   (2) transfer possession of the remains and objects to the de-  
21 partment, which shall determine the tribal or cultural origin of the re-  
22 mains and objects and notify the tribe or cultural group.

23                   (b) When a preponderance of the evidence ascertained under (a) of  
24 this section establishes that the human remains and funerary objects are of  
25 a particular individual or are of an individual who was culturally affili-  
26 ated with a particular tribe or cultural group, the person in possession of  
27 them shall notify the affected tribe or group and return them to the de-  
28 scendants of the individual, tribe, or cultural group, as the case may be,  
29 upon request of the appropriate party unless title to them has been

1 transferred to the person from the descendant, tribe, or cultural group.

2 (c) Upon request, the Historic Sites Advisory Committee established  
3 under AS 41.35.110 - 41.35.190 shall assist in determinations under this  
4 section.

5 (d) If there is no evidence available to indicate the tribal or  
6 cultural origins of Native human remains or funerary objects examined under  
7 this section, the person who lawfully possessed them before they were  
8 examined under this section remains in lawful possession of them until  
9 evidence of their origin becomes available.

10 (e) A person who does not comply with this section, in addition to  
11 other penalties that may be applicable, is not eligible for state funds  
12 related to the maintenance of historic, prehistoric, or archeological  
13 resources.

14 (f) In this section,

15 (1) "funerary objects," "historic, prehistoric, and archeologi-  
16 cal resources," "Native," and "tribe or cultural group" have the meanings  
17 given in AS 41.35.230, as amended in sec. 16 of this Act;

18 (2) "person" has the meaning given in AS 01.10.060 and also  
19 includes a public entity of any type.  
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**Advisory  
Council On  
Historic  
Preservation**

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The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #509  
Washington, DC 20004

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**POLICY STATEMENT  
REGARDING TREATMENT OF HUMAN REMAINS  
AND GRAVE GOODS**

Adopted by the Advisory Council on Historic Preservation

September 27, 1988

Galup, New Mexico

When human remains or grave goods are likely to be exhumed in connection with an undertaking subject to review under Section 106 of the National Historic Preservation Act, the consulting parties under the Council's regulations should agree upon arrangements for their disposition that, to the extent allowed by law, adhere to the following principles:

o Human remains and grave goods should not be disinterred unless required in advance of some kind of disturbance, such as construction;

o Disinterment when necessary should be done carefully, respectfully, and completely, in accordance with proper archeological methods;

o In general, human remains and grave goods should be reburied, in consultation with the descendants of the dead.

o Prior to reburial, scientific studies should be performed as necessary to address justified research topics;

o Scientific studies and reburial should occur according to a definite, agreed-upon schedule; and

o Where scientific study is offensive to the descendants of the dead, and the need for such study does not outweigh the need to respect the concerns of such descendants, reburial should occur without prior study. Conversely, where the scientific research value of human remains or grave goods outweighs any objections that descendants may have to their study, they should not be reburied, but should be retained in perpetuity for study.

---

Representative Cliff Davidson  
February 7, 1990

I strongly urge you and the other co-sponsors of HB 436 to take the time to create such a consensus and craft a more workable bill. I appreciate your consideration of my views.

If I can answer any questions or provide any additional input, please do not hesitate to contact me. I can be reached at the following phone numbers: 474-7039 (office), 479-8406 (home), 474-6967 (FAX).

Sincerely,

*Wendy H. Arundale*

Wendy H. Arundale, Ph.D.  
Research Associate, IAB  
Adjunct Faculty, Department of Anthropology

Attachment

UNIVERSITY OF ALASKA FAIRBANKS

INSTITUTE OF ARCTIC BIOLOGY  
Fairbanks, Alaska 99775-0180 U.S.A.

(907) 474-7640  
FAX: (907) 474-6967

February 7, 1990

Representative Cliff Davidson  
Alaska House of Representatives

Déar Representative Davidson:

I understand that you are cosponsoring HB. 436, a bill to amend the Alaska state historic preservation act. I am very glad to see you and other legislators working to improve historic preservation legislation in our state. I am also glad to see you taking up the issue of native rights in relation to human remains and grave objects. These are important issues, deserving careful consideration.

As an archaeologist/anthropologist who has worked extensively on historic Native sites, including major projects for the North Slope Borough and Doyon, Ltd. I am keenly aware of and sympathetic with the concerns Native people have for cultural resources that are rightfully theirs. In the past archaeologists and physical anthropologists often have not respected Native concerns in these matters. I am painfully aware, for example, of the anguish and anger aroused by the activities of Ales Hrdlicka and some of his contemporaries. A few of my colleagues still display outmoded attitudes on these issues, but many people working in the field of cultural resources today appreciate Native people's concerns and would like to see enacted workable legislation that respects Native views.

After reading HB 436, however, I have some real concerns about whether this bill can achieve the goals its authors have in mind. I also believe there are some additional goals of potential benefit to Native people--as well as others with buried ancestors in Alaska--that are omitted. Let me indicate just a few of the problems I see with the bill and suggest a future course that I feel would have broad benefits for all Alaskans.

For example, to be really workable, HB 436 needs some clearer definitions. How are tribes or cultural groups who will have a number of rights under the bill to be designated? The definition of "reasonably identifiable" is very weak; the preponderance of evidence is often not the best or most scientifically sound way to make an identification. Sometimes wrong or inaccurate identifications get perpetuated in the scientific literature, making up a "preponderance of the evidence" but then later are

Representative Cliff Davidson  
February 7, 1990

shown to be wrong. What will happen when items can be identified with a tribe or cultural group that have no living descendants? Would a site containing graves from such a group be ineligible for designation as a state monument or historic site because there is no one to give written consent?

A more serious issue is language in section AS 41.35.040 (d) and (h). For some time the principle of survey and mitigation in advance of construction projects has been a standard mode of operation. This section fails to make this standard practice part of the law, thus potentially taking historic preservation efforts back 15 or more years, and possibly creating serious economic hardships for construction projects. Further, section (h) fails to specify any clear mechanism for returning human remains or funerary objects to the group of origin. There are other problematic sections that I could cite as well, but my point is not to be overly critical. My point is simply to say that the bill needs much more careful thought and rewriting if its tasks are to be carried out successfully.

The bill also fails to make provisions, where appropriate, for studies of disinterred human remains and funerary objects, Native or otherwise, where the studies can be carried out in a respectful way, and where they might well benefit descendants of the dead. I think the way the Utkiagvik Project handled the "frozen family" research in Barrow could serve as a good model on which to build. In this case the archaeologists worked closely with Public Safety, local leaders, and the elders to develop an acceptable plan for excavation, study, and reburial. The result was not only respectful treatment of the human remains, but also important information on the history and heritage of the Barrow area, as well as valuable medical and health-related data, all beneficial to Barrow-area people.

I feel strongly that HB 436 would benefit greatly from a much broader range of input from all interested parties--Native people, archaeologists, the Office of History and Archaeology in DNR, Public Safety people and so on. Such an effort could also benefit from consulting documents such as the Advisory Council on Historic Preservation's "Policy Statement Regarding Treatment of Human Remains and Grave Goods" (a copy is attached) and some of the laws already enacted by other states on this matter. By working with the various interested groups to build a consensus, you are much more likely to get legislation that will really work to protect the human remains and funerary objects, lead to their respectful treatment, and where appropriate, return to their rightful place, while preventing onerous over-regulation, costly litigation, or worse yet, loss of the remains altogether.



## UNIVERSITY OF ALASKA MUSEUM

February 8, 1990

Dear Chairmen Davidson, Menard and Members of the House Resources Committee:

As curator of Alaska's largest collection of archeological material I am delighted to see interest on the part of the legislature in developing meaningful legislation toward the preservation of Alaska's rich cultural heritage. This type of legislation is desperately needed and long overdue. While I support the concept of strong historic preservation legislation, I believe that House Bill 436 as presently written will not accomplish meaningful heritage preservation and will further obfuscate what are already difficult and complex issues. I would like to share with you a few of my concerns with the legislation as it is currently proposed:

- 1) "Funerary objects" repeatedly mentioned throughout the bill are largely recognized by their association with a human burial(s). For example, a rifle may or may not be a funerary object depending on whether it has been placed in a human burial or rests in a gun rack. A vast number of objects both in private possession and held in the public trust may be contested which will be difficult or impossible to classify. For example, all arrowheads could fall in this category.
- 2) The minimum requirements for repositories for cultural materials have been defined by the American Association of Museums. Museums throughout the state have been working hard to meet these minimum standards for accreditation. The bill defines minimum criteria as a "durable building with weather-proof and fireproof construction and humidity control and other factors to serve as a museum". As a member of the American Association of Museums and a museum professional, I believe this loose definition of standards will undoubtedly lead to the destruction, deterioration and ultimate loss of many of the materials we have been attempting to preserve.
- 3) Most cultural materials from Alaska have been collected in conjunction with Federally licensed, funded or permitted projects or programs. When federal support or permitting are required, federal historic legislation and regulations applies. The minimum requirements for facilities housing these types of collections are defined in 36 CFR 79 which became effective in January 1990. A considerable capital budget and subsequent operating budget will be required to maintain facilities to adequately meet these criteria if collections are to be lawfully transferred to regional repositories and at the same time meet minimum federal requirements.

## UNIVERSITY OF ALASKA

House Bill 436 Memo

February 8, 1990

Page 2

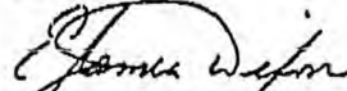
- 4) Particularly disturbing are sections of the bill requiring individuals and public institutions to identify and determine tribal or cultural origins of materials or transfer materials to DNR within 120 days from the effective date of the Act. The University Museum serves as repository for archeological materials collected by DNR. If the University Museum is to continue in this role following passage of this bill, the University lacks the facilities, personnel and fiscal resources to accomplish the objective set forth in this legislation. If the University Museum, and other museums throughout the state, are required to make these determinations and transfer these collections to the DNR (which does not have the facilities or expertise to handle them) much of the progress which has been made in preserving these collections will be lost and a major cultural resource will be unnecessarily placed in jeopardy.

I would like to reiterate that I support the concept of strong and meaningful historic preservation legislation. However, such legislation can only be developed successfully with careful deliberation and broad input to assure that the many facets of these complex issues are carefully considered and addressed in an equitable and responsible fashion. House Bill 436 as it is currently drafted will create many more problems than it resolves. It is important that we build on the very positive progress that has already been accomplished and not jeopardize the considerable effort and fiscal commitment the state has already devoted toward preservation.

I support the concept of regional repositories for the display and curation of cultural materials. These facilities must be constructed to meet professional and federally mandated standards. Because the responsibility for care is in perpetuity, these facilities must be adequately funded to support permanent trained staffs to care for these collections. Before such legislation goes forward, both capital and operating budget analysis should be initiated to assure this very worthwhile goal may be achieved and maintained.

If I may be of any assistance in this matter or future proposed legislation, please feel free to contact me. Thank you very much for the opportunity to comment.

Sincerely,



E. James Dixon, Ph.D.

Curator of Archeology and Associate Professor  
University of Alaska Museum

sao

## SECTIONAL ANALYSIS

by Staff to Representative Davidson

**SECTION 1:** Adds a new section to the Coroner's Inquest, (AS 12.65) that deals with the discovery of human remains. There is currently no directive to the public as to what procedure to follow when human remains are discovered. This section mandates that the remains are not disturbed and their presence reported. If the remains are found to be unrelated to a prosecutable offense, the Department of Natural Resources is notified. A person who fails to follow this procedure is guilty of a Class A misdemeanor.

The bill makes it illegal to sell, buy or barter human remains. Also, human remains may not be displayed unless it is in connection with a funeral or burial or as required for medical or law enforcement activities. A violator of this section is guilty of a Class A misdemeanor.

**SECTION 2-10:** Amends or adds to the **Alaska Historical Preservation Act, AS 41.35.**

**SECTION 2- 5:** Brings the Alaska Historical Preservation Act in compliance with the new additions in Sections 9 and 10.

**SECTION 6:** Brings the DNR's historical resource permitting process in compliance with the new language dealing with human remains and funerary objects.

**SECTION 7:** Requires notice to be given to DNR by those who have an historical site or state monument on their property before any construction, alteration or improvement is undertaken. The **section is amended** to include contacting the identifiable tribe of origin when human remains are involved.

**SECTION 8:** Definitions.

**SECTION 9:** **NEW SECTION.** Adds to the Alaska Historical Preservation Act the procedure to follow when human remains and funerary objects are discovered

AS 41.35.400 is a policy statement that no person can have title to human remains, only the right to disposition. The

right to disposition lies with the state unless the decedents living relatives or tribe are reasonably identifiable.

AS 41.35.410 outlines the procedure to follow upon the discovery of human remains that are not related to law enforcement activities. If the human remains are not disinterred, the department shall leave them in place where they are interred. If the remains have been disinterred, the department shall contact the decedent's living descendants with the closest kinship or the tribe of origin. When the kinship is not know, the closest tribe in the proximity of the discovery shall be notified.

After contact and upon request, the remains or funerary objects shall be returned by DNR so the descendants or tribe may dispose of them. If there is no response within 120 days, DNR shall treat the human remains as they treat other unclaimed human remains or historic resources, as applicable.

A tribe may enter into a contract with a person for study of the human remains before disposal.

AS 41.35.420 creates a dispute committee appointed by the Governor to resolve disputes concerning the tribe of origin.

SECTION 10: NEW SECTION. This section defines the procedure to follow for those remains currently being held. It mandates those in possession of human remains to contact DNR within 120 days. The department shall then prepare an abstract containing indexed information related to the reports received. After compilation, the department shall send the abstract to the governing body of each tribe in the state. The tribes may file a claim with the department to request return of remains listed on the abstract.

The dispute resolution committee shall address any duplicated claim. If there is not a claim filed within 120 days after receipt of the abstract, the department shall take possession or enter into an agreement with persons or institutions for protective custody of the remains.

ALASKA FEDERATION OF NATIVES, INC.

1989 ANNUAL CONVENTION

RESOLUTION NO. 89-63

TITLE: PROTECTION OF HISTORICAL/BURIAL/CULTURAL SITES

WHEREAS on March 24, 1989, the tanker Exxon Valdez ran aground on Bligh Reef and created the largest oil spill ever on the North American continent; and

WHEREAS efforts to contain the oil spill were largely unsuccessful and the Prudhoe Bay crude oil was carried by currents throughout Prince William Sound, down the coast of Kenai Peninsula, up Cook Inlet, around Kodiak and Afognak Islands, and down the Alaska Peninsula and Aleutian Islands; and

WHEREAS the Eskimos, Indians and Aleuts have innumerable cultural, burial and historical sites throughout Alaska including many within the areas impacted by the oil spill; and

WHEREAS the historical, burial, and cultural sites were violated by cleanup workers and others invited by the consequences of America's worst oil spill; and

WHEREAS human skeletal remains of the ancestors of the Alaska Natives were removed from traditional burial sites and artifacts collected as curiosity pieces by trespassers and others who went beyond the scope of normal cleanup activities;

NOW THEREFORE BE IT RESOLVED by the delegates of the 1989 annual convention of the Alaska Federation of Natives, Inc. condemns the taking and removal of any and all skeletal remains and artifacts from oil impacted areas; and

BE IT FURTHER RESOLVED that trespassers, government agencies, contractors, subcontractors, and others are urged to return all artifacts and skeletal remains to their traditional final resting places.

SUBMITTED BY: 1989 Youth Conference

COMMITTEE RECOMMENDATION: Do Pass

CONVENTION ACTION:

ALASKA FEDERATION OF NATIVES, INC.

1989 ANNUAL CONVENTION

RESOLUTION NO. 89- 62

TITLE: PRESERVATION OF NATIVE ALASKAN ARCHEOLOGICAL SITES  
AND ARTIFACTS

WHEREAS Archeological sites have been interrupted by  
unnatural disasters; and

WHEREAS the history of Native archeological sites is  
plagued by the removal of the artifacts and  
destruction of the sites; and

WHEREAS the Natives feel their beliefs and customs have  
not been respected by others;

NOW THEREFORE BE IT RESOLVED that significant archeological  
sites and the artifacts from the sites, if  
uncovered, should not be disturbed or removed  
without the approval of the tribal council or  
local Natives.

SUBMITTED BY: 1989 Youth Convention

COMMITTEE RECOMMENDATION: Do Pass

CONVENTION ACTION:

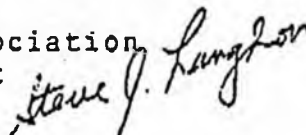
# Alaska Anthropological Association

P.O. Box 230032 Anchorage, Alaska 99523

Feb. 7, 1990

TO: Members of the House Natural Resources Committee  
Reps. Davidson, Menard, Jacko, Davis, Foster, Furnace  
Hudson, Navarre, Sharp

FR: Alaska Anthropological Association  
Steve J. Langdon, President



RE: Continuance for HB 436

The Alaska Anthropological Association is dedicated to scientific investigation and understanding of Alaskan prehistory and Alaska Native cultures. Its membership includes professional archeologists, anthropologists, Alaska Natives and other citizens interested in these matters.

The Association's Board of Directors has reviewed HB 436, "An Act relating to historic, prehistoric, and archeological resources" (version 2/3/90) and would like to register these comments. The Association is deeply committed to the responsible treatment of all archeological resources including human skeletal remains. The proposed legislation, however, will likely adversely affect archeological research into Alaskan prehistory and may even preclude such research. Although we do not feel this was the intention of the bill's sponsors, serious ambiguities in the bill require further deliberation and clarification in order to preclude possible unforeseen negative impacts. The board therefore recommends that a continuance be granted allowing interested and affected parties time to consider the implications of the bill and to present their comments to the committee. The Board is convinced that through fuller discussion and deliberation, a broad-based consensus reflecting the concerns of the interested parties can be obtained. We stand ready to assist the committee in any way in order to help revise the legislation.

# MEMORANDUM

# State of Alaska

Larry Ostrovsky  
TO: Special Assistant  
Commissioner's Office

DATE: March 22, 1990

FILE NO: 3130-2 Legislation

Neil Johannsen *NJ*  
Director DPOR

TELEPHONE NO: 762-2630

FROM: Robert D. Shaw *RS*  
Office of History & Archaeology

SUBJECT: Comments on HB436,  
version 3/16/90

Following are my comments on the latest version of HB436 dated 3/16/90:

Sec. 12.65.150(c): Line 27. Should delete "Native" and make law applicable to all human remains regardless of ethnic identity. Should also include words "historic or prehistoric" in reference to human remains so that DNR is not involved with modern remains.

Sec. 12.65.160: Line 2. Should insert "own, possess" after "may not." Line 3. Should insert "disinterred" after "barter." Line 4,5. Should exclude display for educational purposes in an educational institution as one of the exceptions to display prohibition. e.g. teaching osteology, anatomy. Insert ",educational" after "medical".

Sec. 41.35.040: Line 19. Delete "Native" so that provision applies to all human remains.

Sec. 41.35.230(4): Line 7. In defining "human remains" add ", but excluding body parts shed during life such as hair, nails, and isolated teeth." after "decomposition".

Sec 41.35.410(c): ADD "Human remains found during archaeological investigations permitted under Sec. 41.35.080 and subject to procedures and conditions defined according to that section can be disinterred if so provided in the permit."

This provision will make this section comply more clearly with permitting provisions under AS 41.35.080 and while providing consultation with appropriate tribal groups under the permitting process, would not un-necessarily delay permitted archaeological investigations.

Sec 41.35.410(c): ADD "Human remains unexpectedly encountered during construction or development activities and when there is no prudent or feasible alternative, may be disinterred according to conditions and procedures defined prior to ground disturbance in consultation with the Department and appropriate tribal groups."

This will clarify responsibilities when projects such as highway projects or airports unexpectedly encounter human remains during construction activities. That would help eliminate project delay and considerable expense due to work stoppage and contract penalties.

Sec 41.35.410(f): ADD "When the human remains have importance and worth beyond that assigned to identifiable tribes and are of legitimate, extreme, scientific importance, dispute as to disposition will be referred to a committee as defined by AS 41.35.420."

This provision will allow resolution of conflicts where tribal affiliation is ill defined and extreme importance of remains to society as a whole is demonstrated.

Sec. 41.35.420: Line 9. Editorial change only -- "colorable" to "credible".

Sec. 9(5): Line 1. Editorial change only -- "portable" to "probable".

# The Chugach

The Official Publication of Chugach Alaska Cor

Vol. 16 No. 5



## Chugach Man; symbolic of effect oil spill is having on the people

He had no cavities, not unusual for a person between 35 and 40 years old living in the area over 200 years ago. He stood five feet three inches. He had no contact with the Russians, British, Spanish or Americans who later came looking for riches - sea otter and seal pelts, salmon, herring and later gold. When he died, the people of his village honored him by placing his remains in a cave high above

the waters of Knight Island. He was a Chugach man and he rested in peace, undisturbed by the turbulences of the last two hundred years - until the oil spill.

As the oil from the *Exxon Valdez* spread throughout Prince William Sound, so did thousands of cleanup workers. The workers did more than attempt to clean the beaches. They went upland, often onto Chugach and village corporation lands. Historical sites long protected by the fact that their locations were unrecorded by federal or state agencies were now being "discovered."

By the middle of June scores of VECO, Norcon and Exxon workers were tres-

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# Chugach Man

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passing on ancient burial sites, including the one on Knight Island.

The workers did much more than trespass. As a result of their invasion, this sacred burial cave and village was desecrated by workers trampling over this fragile pre-historic environment.



Ilene Totemoff attends the reburial service.

"We believe Exxon was negligent for not surveying, monitoring and protecting this paramount historical site. The remains of this man were torn away from its resting place - bagged and tagged for observation in Anchorage." said CAC Chairman Edgar Blatchford.

The Chugach man was not the only one buried in the cave. But he was the only one carted away.

Reports of findings of skeletal remains circulated among workers and at the request of Exxon's lead archaeologist, Alaska state troopers responded. They arrived on the scene on June 24 and removed the remains to the crime lab in

Anchorage. Ten days later, by accident, the Chugach oil spill response team learned of the "rediscovery."

No-one in Chugach or the village corporations of Tatitlek and Chenega were notified. They should have been. Exxon was aware of CAC's policy on human remains, which states that: "Upon discovery of any human remains CAC is to be notified immediately and the remains are not to be disturbed unless directed by CAC".

Chugach responded in anger. Chugach could not - would not wait any longer for the slow wheels of a blundering bureaucracy to give its blessing to return the remains and to grant permission for a re-burial back at the place of its origin.

Chugach demanded that the remains be turned over immediately to the corporation, and thus they were.

Two months after oil spill workers violated his resting place, the Chugach man was finally returned to the burial site.

On August 14 a delegation from around the region, including Henry Makarka, Richard Stevens, Charles Selanoff, Sr., Peter Selanoff, Mike Eleshansky, Ilene Totemoff, Chris Borodkin, Edgar Blatchford, Gilbert Ollestad, Derenty Tabios, John Johnson, The Very Reverend Archpriest Nicholas Harris, Father Mark Luke, Lora Johnson and Jim Talerrico, accompanied the remains and quietly honored the Chugach man by burying him with the church's blessing. No outsiders were invited - not the media, not Exxon.

However, since the burial was on national forest lands, a Forest Service observer was present.

Under federal law, historical sites are protected. But by the time the oil company learned the law, the Chugach man was disturbed - for the first time in two cen-



Charles Selanoff, Sr. on Knight Island.

turies. May he now, once again, rest in peace for ages and ages.

Father Harris gave this eulogy prior to reintering the Chugach Man.

*"Before we re-enter this man back into the earth and bless this coffin and place we must realize that God brought us to this place in the natural beauty of this island. In praying for him, we are asking God to bless all of those who have departed this life."*

*The people of this area were blessed by God to live the Orthodox life. Thus it is appropriate today to celebrate this service. When news came to us that this persons relics were disturbed we had to do something about it, CAC and its staff saw to it that an appropriate burial would be made.*

*This man we are to bury is a representative of all the people of this area, people who lived here for thousands of years. It was God's will that they live a most beautiful life then and it is His will that they live a most beautiful life now.*

*This wonderful place has been disturbed by that great oil spill that has affected all of our lives. We hope and pray that as time goes on that everything that has been disturbed will be restored and that this person who has been reinterred here will be a symbol of this. Although his grave has been disturbed now, he will now be placed back with DIGNITY, with HONOR and with RESPECT.*

*By honoring him, we honor everything which God has created. We must have respect for every living person, every living creature and every blade of grass that we walk on, because God reveals Himself in nature and in man. He is the God of the universe."*



A small craft takes shareholders to the burial site.

# Oil Company Canceled Exhibit of Native Artifacts

by: Marilee Enge, Daily News reporter  
Anchorage Daily News  
Friday, August 18, 1989

An exhibit of aboriginal Native artifacts plucked from the oiled beaches of Prince William Sound and Kodiak Island was canceled by Exxon Corp. when Native leaders complained they were excluded from preparations for the show.

The quarrel came as Natives in the Sound were preparing to rebury ancestral remains removed by oil spill workers and points up conflicts between the massive cleanup of the nation's largest oil spill and the people who live on the oiled shores.

The exhibit of work by state and Exxon archaeologists during the cleanup of the March 24 oil spill was scheduled to go on display Monday at the Exxon headquarters in Valdez. It was canceled when Chugach Native Association leaders protested.

"Our concern is that we don't want those sites disturbed," said Edgar Blatchford, chairman of the organization.

"The only protection that Prince William Sound offered the ancestors of the Chugach people was that nobody knew about them. Now we have thousands of people out there. We have scientists, archaeologists, construction engineers and the media. We've opened a very private family vault and exposed everything to the world."

The display of about 30 stone tools and other objects from Kodiak and the Sound was organized quickly late last week. Exxon's chief archaeologist, Charles Mobley, said he began planning an educational exhibit on the company's cultural resources program last Thurs-

day. On Friday, someone suggested that the display be held Monday when a group of Exxon executives would be visiting.

"We tried to put it together in a short period of time," Mobley said. "It obviously wasn't enough time for the Native community to get behind it."

Officials with the Native association and village leaders from the Prince William Sound area learned about the display on Saturday. Village leaders from Eyak, Tatitlek and Chenega Bay were "very ir.ensed" that Exxon had proceeded without consulting them, according to Blatchford.

"We've really had problems with vandalism for the past 10 years," said John Johnson, cultural resources manager for the Native association. "People are constantly dragging these artifacts out and putting them on their mantels."

"We try to keep specific sites confidential. We're into public information but not a big blitz. They just sprung this on us."

Mobley said he had no intention of publicizing specific sites and exposing them to looting or vandalism. The Natives did not understand that his program has been scrupulous in keeping such information secret, he said.

Besides displaying 30 or so objects gathered so far from the Sound and Kodiak, the exhibit would have explained how archaeologists gather information and how they try to prevent beach crews from damaging sites.

Mobley is quick to point out that collecting artifacts is only incidental to the other work by archaeologists and done as a last resort to protect the items from damage.

But when the Natives heard about Exxon's exhibit, they were already smarting from an earlier incident in which bones from an ancient burial site on Knight Island were removed.

Cleanup workers came upon the

bones June 22 and reported that they'd found fairly recent human remains in a cave far above the high tide mark, according to Mobley. An Alaska State Trooper stationed in Cordova went to the scene and collected the bones.

Exxon's contractors have been instructed to leave archaeological finds in place and inform Mobley's office of any discoveries. But a similar incident happened two weeks later on Kodiak where ancient skeletal remains were also removed.

The Knight Island bones were flown to the state crime laboratory in Anchorage where a physical archaeologist quickly determined that they were aboriginal, said lab director George Taft. The Chugach Native Association later took possession of the remains. On Tuesday, the villages

of the Sound held a religious reburial ceremony.

"Nobody likes their family graves unearthed and that is how we see it," said Blatchford.

"I think it was obvious the bones had been there for a few hundred years and there was no need to remove them. If

there was no body, only a few bones... it wouldn't have hurt to leave them for a few more days."

The archaeological exhibit has been postponed indefinitely. Blatchford said Chugach leaders might approve it later but he would not support a showing without full consent of the village elders.

"We didn't particularly care if it was a public showing open to one person or to everyone in Valdez," he said. "Among the elders of the Chugach region, there is a strong connection with the historic sites."

This is a family secret. It's valuable. It's important to us as a people to leave it for ourselves and for our future generations."

*Editor's note: This article refers to Chugach Native Association. It should be Chugach Alaska Corporation.*

**"We've really had problems with vandalism... People ... dragging these artifacts out and putting them on their mantels."**



## 4th All Chugach Summit...

### Facing a common enemy

It was reminiscent of land claims days. The Chugach People pulled together to face a common enemy – the desecraters of the Chugach region.

"We are family. This is our corporation. These are our people. That's why we have unity," Agnes Nichols told a hushed audience at a September meeting of the All-Chugach Summit Conference.

All of the village for-profit corporations were there. So were the village governments, The North Pacific Rim and Chugach Alaska.

The Chugach region was brought together by the *Exxon Valdez* oil spill, the biggest ever on the North American continent.

Nichols, the village chief of Eyak, was eloquent in her remarks. Though ailing, she moved gracefully on her two canes as she urged the delegates to work together

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Photographs .....  
*When the Water T*  
*Governor visits*  
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*Land Report* .....  
*Corporate Oilspill* .....  
*Chugach Fish Distr*  
*All-Chugach Resolv*  
*Alaska Task Force*  
*Timeline Highlights*  
*Regional Oilspill Me*  
*Quotes* .....  
*Native Artifacts Exp*  
*Fishermen's Catch* .....  
*Snapshots* .....  
*Oilspill Response Tea*  
*Legal Reports* .....  
*Co Molences* .....  
*Seward Summit* .....

## All-Chugach Summit

(continued from page 1)

and move forward together.

"I came because I felt I needed to be here. There's not many old timers left. We know everybody. We are family."

This All-Chugach Summit was the fourth conference since the March 24 grounding of the tanker on Bligh Reef. The summits were called by Edgar Blatchford, CAC chairman, in an effort to unite the region as the villages faced a multitude of state and federal agencies and the international media.

"We have to talk with each other and listen to the concerns and interests of our shareholders. Though we may have disagreements, that doesn't mean we can't have open communications. There are so many out there who want to divide us for their own selfish interests," the CAC chairman said.

At the fourth conference the delegates heard reports from the governor's office, the state oil spill coordinators office, and the state departments of Community and Regional Affairs, Fish and Game and Commerce and Economic Development. There were also speakers from the state historical preservation office and a consultant working on the Alyeska oil spill contingency plan.

It was a meeting to share information and reassure each other that the interests and concerns were mutually shared by the delegates.

"The Exxon/VECO efforts divided us. This is an opportune time to bring all of us together." Derenty Tabios, executive director of The North Pacific Rim said.

All of the communities of the region have been directly impacted by the oil spill. The subsistence lifestyle has been negatively affected as scores of villagers were unable to harvest herring roe, salmon, seal and other foods from the sea.

Hundreds of people were flying into the villages, putting pressure on community services from child care to hous-

ing, from police protection to sewage treatment.

"It's not over yet," said Blatchford. "There will be increased attention on Prince William Sound and the areas bordering Kenai Fjords National Park - Native corporations lands. Environmentalists will want to regulate or prevent Native business opportunities in fish, recreational development and timber harvesting. Every step of the way we will be watched. There's no turning back. The world has discovered the Chugach region."

On the first day of the spill CAC representatives were flying over the grounded tanker. Within days the regional corporation had opened an office in Valdez to work with Alyeska, Exxon, oil spill contractors, the state Department of Environmental Conservation, the U.S. Coast Guard, the federal Department of Transportation and numerous other agencies.

CAC was not geared up to handle an oil spill but as the oil spread from Bligh Reef, CAC moved to protect its interests.

Though primarily a fish, timber and development corporation, CAC had to immediately become an oil monitoring company forced to interface with hundreds of agency people.

Pressure from the village corporations and shareholders also necessitated Chugach Alaska taking a leadership role in protection of cultural resources and advocacy of shareholder-hire in the cleanup work. CAC also had to attempt to mitigate damages, so contract opportunities were seized such as camp catering and waste disposal.

All of this required open communications.

Exxon and VECO changed their plans almost daily, sometimes leaving Chugach in mid-stream such as the situation that developed over the proposed Chenega camp. VECO said put a camp in Chenega, then changed their minds.

In early May a call for a region-wide meeting went out. The first All-Chugach Summit was held in an attempt to keep everyone from being totally inundated with oil spill activities.


Chugach Alaska spent hundreds of thousands of dollars trying to protect Native interests. It wasn't until three months into the oil spill did Exxon approved the first reimbursements. The delay put severe financial strains on the corporation.

"We had a moral obligation to try to help as much as

we could.

But the only way we could succeed was if there was open communication. People just couldn't demand from Chugach, then go away without contributing anything to solving the problems. We had to work together. That's why these All-Chugach Summits were, and are, very important. If the affected parties don't participate, then you can't blame us for Native interests not succeeding," said Blatchford.

"We must never forget that the common enemy is not us. We're all shareholders. We should all want our corporation to succeed. Why would anyone want to cut off our nose to spite our face," Blatchford asked.

The September two-day conference ended on a high note with Dr. Nancy Yawes Davis, a noted anthropologist long familiar with the region, extolling the strengths of the Chugach People. She said there was "great strength" in the people who had overcome so many intrusions so many times before. "There's a wonderful resilience in the Chugach People." 

**"We are family.  
This is our  
corporation.  
These are our  
people. That's  
why we have  
unity,"**

*Agnes Nichols,  
Eyak Village Chief  
Sept. 11, 1989  
All-Chugach Summit*

## FAX TRANSMISSION

7 February 1990

Representative Curt Menard  
House Resources Committee  
FAX: 465-2299

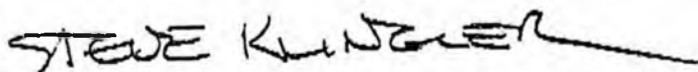
Dear Representative Menard,

As a practicing archaeologist, I would like to comment on House Bill 436, the bill dealing with disposition of Native human remains. As now written, I am opposed to passage of this bill and would like to request, at the very least, a continuance on committee hearings on the bill, to give adequate time for full and substantive comment on the bill.

I have no problem with addressing the reburial issue, in fact I am quite interested in seeing that it is dealt with. Archaeological ethics demand that human remains in general be respected and that the concerns of individual descendants and cultural groups be recognized and respected. I do, however, disagree with much of the bill as now written. Unfortunately, there has apparently been little input from those with somewhat diverging views. As now written, the bill ignores legitimate scientific interests in human remains, will adversely affect archaeological fieldwork in general, and may, from a management aspect, be unworkable. While on the surface scientific interests may appear to be in conflict with Native interests, I believe that this is more apparent than real. The Society of American Archaeology has a statement of policy that I would recommend be considered. Further, I recommend review of a bill now pending before the U.S. Senate (S. 1579, Sec. 19) for evidence that a broad-based consensus can be reached.

From my viewpoint, the best way for this issue to be addressed, rather than through the hearing process, may be the appointment of a commission, or other such body, with balanced representation of the various interests involved. A satisfactory consensus, allowing flexibility, respecting diverse cultural values, and allowing bona fide research, is desirable and is possible.

Sincerely,



Steven L. Klingler  
5141 Seldon Circle  
Anchorage, Alaska 99516  
(907) 346-3542/762-2632



# UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive  
Anchorage, Alaska 99508

COLLEGE OF ARTS AND SCIENCES  
Department of Anthropology

To: Members of the House Resources Committee  
Representatives Davidson, Menard, Jacko, Davis, Foster,  
Furnace, Hudson, Navarre, Sharp

Dear Sirs:

February 7th 1990

I have reviewed an early version of the proposed modification for the Alaska Historic Preservation Act. This item (HB 436) is scheduled for review by the House Resources Committee tomorrow (February 8th).

The effect of the proposed modifications, given the vagueness of the definition of the present "cultural origins/affinities" clauses, is to give current tribal and cultural groups the power to retroactively end the scientific study of the important information about life in prehistoric times contained in human skeletal remains and funerary objects. Furthermore, and perhaps more significantly, since most archeological sites in Alaska might contain human remains, the proposed modifications, if broadly interpreted, would give the same organizations and individuals the power to greatly impede or effectively terminate the archeological study of the prehistoric human past over much of Alaska by exercising their options to refuse to grant permission to excavate sites.

I do not suggest that such drastic outcomes are the intent of the sponsors of this legislation. These implications must be understood and addressed in preparation of the final wording of the proposed modifications however, and certain ambiguities in the present wording must be clarified. I therefore request that the hearing on this measure be continued, giving time for adequate comment from interested parties and clarification of the wording of the bill, before the measure is voted on by your committee.

If you have any further questions I can be reached at 786-1199 (office) or 563-6372 (home).

Yours sincerely,

A handwritten signature in cursive script that reads "William B. Workman".

William B. Workman  
Professor of Anthropology

**UNIVERSITY OF ALASKA FAIRBANKS****Department of Anthropology**  
Fairbanks, Alaska 99775

February 7, 1990

Representative Cliff Davidson  
Alaska House of Representatives  
Room 108 Capital  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Davidson,

I am writing you with reference to House Bill 436. This proposed Bill offers a fine opportunity to engage the citizens of this state in a dialogue about the protection, preservation, and understanding of the historical and archaeological resources of the state. As one who has committed 20 years of my own professional career to Native culture heritage issues, I welcome the opportunity this bill presents.

Nevertheless, the bill, as it is currently worded, seems to raise serious management issues and does not seem to be entirely in the best interest of the Native community, nor in the best interest of many institutions and individuals who are struggling to preserve, protect and understand the culture heritage of this state.

Without going into any details, I would like to relate briefly to you my experience on Kodiak which extends back nearly a decade and has resulted in a fine partnership with KANA, as well as with many Native people residing in Kodiak's villages. I began serious archaeological investigation of the Native history in 1983. From its inception this research project was conceived as a working partnership with Native residents of the island. To the best of my knowledge, this relationship has been very successful and been of benefit to all parties concerned.

With respect to human skeletal material, an agreement was reached early in the project's history with both KANA and people in the relevant villages. Although the goal of our research was never targeted toward the recovery of human skeletal material, we did stumble across human remains in the course of excavating village sites. The solution reached was simple. We were allowed to excavate human remains with care and respect; we were allowed to study the remains in a non-destructive fashion; and we reburied the remains according to the wishes of the local residents. I believe that this case history demonstrates that satisfactory middle ground can be easily reached for the benefit of all concerned parties.

I suggest that this bill needs some rewording. I believe that this can best be done by delaying the legislative hearings so that all concerned parties can provide thoughtful input. In addition, I suggest that a "blue ribbon" commission be established to provide the legislature with the wisest possible counsel.

Sincerely,

Richard H. Jordan  
Chair and Professor of Anthropology

6 February 1990

To: Members of the Committee on Natural Resources  
Alaska State House of Representatives  
Juneau, AK

From: David R. Yesner, Ph.D. *DRY*  
Alaska Representative to the Committee on Public Archaeology,  
Society for American Archaeology

*Re: Repatriation Bill*

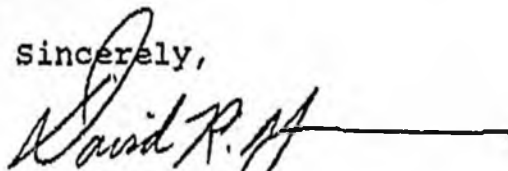
Hon. Members of the Committee on Natural Resources:

On Thursday, February 8th., the Alaska state legislature will take up a proposed bill on repatriation of human skeletal remains and funerary objects to native "tribes and cultural groups" within Alaska. The bill will apply to burials on state land and on private property that may be declared as a "state monument." It requires that all institutions must, within 30 days of passage of the act, prepare a detailed list of all human skeletal materials in their possession, and within 120 days must indicate the appropriate "tribe or cultural group" to which the remains refer, so that the appropriate group may dispose of the remains in the way they see fit. There is no definition of a "tribe or cultural group," so that it is not apparent whether simply declaring material to refer to "Eskimos" or to the Aglegmiut, Malemiut, Nunamiut, Tareumiut, etc. is required. No attempt is made to provide funding for such study. Furthermore, permits must be required from the relevant native "tribe or cultural group" before any excavations may be conducted on state land, or on private land declared as a state monument, if there is even any possibility that human skeletal materials might be encountered. This presents an almost total veto power over the conduct of professional archaeology in the state, and will greatly complicate the permitting process for conducting archaeology within the state in response to federal and state requirements for cultural resource assessment and mitigation in connection with federal and state projects. It will also place great burdens on the Office of History and Archaeology, DNR, and various institutions in analyzing and assessing extant materials. In large part, the problem depends on the period of time over which it can be judged that human remains can be attributed to a particular group; there is no language in the bill to address this question. No provision is made for any length of study of materials before disposal by native groups. Nowhere in the bill is there any acknowledgment of the importance of the scientific data from human skeletal remains in helping to understand the origins and affiliation of Alaska Native groups; their ancient lifestyles, populations, health, and nutrition; or their descent through time, which has been in some cases used to justify native land claims. Finally, no provision is even made for the disposition of the materials themselves by native groups; theoretically, they may even be sold!

As the COPA representative of the state of Alaska, I would like to call your attention to the official position of the Society for American Archaeology on reburial and repatriation, a copy of which is enclosed. Briefly, the official position of the SAA is that the reburial and repatriation of human remains and associated burial goods should take place on a case-by-case basis, with the mutual agreement of native groups and professional archaeologists, rather than through the use of blanket legislation. I have also informed the Office of Governmental Relations of the SAA for their interest. At present, I request that any hearings on this bill be delayed until all interested parties have an opportunity to present their viewpoints on revisions of any contemplated legislation.

Thanks very much for your interest.

Sincerely,



David R. Yesner  
Dept. of Anthropology  
University of Alaska  
3211 Providence Drive  
Anchorage, AK 99508

# Bulletin

November 1989

Vol. 7, No. 6

## OF THE SOCIETY FOR AMERICAN ARCHAEOLOGY

### Reburial and Repatriation

Jeremy Sabloff, SAA president, has formed a Task Force on Reburial and Repatriation to review legislative initiatives and to advance the Society's position with the Congress and the media. Since its creation, the Task Force has worked closely with the SAA's Office of Government Relations, particularly on the historic preservation legislation, with reburial provisions, proposed by Senator Fowler and on the reburial and repatriation sections of the bill introduced by Representative Campbell. The Task Force is chaired by Keith Kintigh (Arizona St.) and includes Richard Ford (Michigan), Lynne Goldstein (Wisconsin-Milwaukee), William Lovis (Michigan St.), Vincas Steponaitis (North Carolina), and Phillip Walker (California-Santa Barbara).

The Society's position on reburial was adopted by the Executive Committee in May 1986, after a long period of study and careful consideration. This position maintains that both scientific and traditional interests in human remains are legitimate. It states that the disposition of human remains should be determined on a case-by-case basis, considering the beliefs and strength of the relationship of possible claimants to the remains and the scientific value of the remains. However, in cases where the remains are of a known individual, disposition should be determined by the closest descendants, regardless of scientific value. The statement encourages communication between scholars engaged in the study of human remains and the communities that have an affiliation with the remains.

Given the public debate concerning reburial, and because there appears to be some uncertainty within the profession about the Society's position, the SAA Statement Concerning the Treatment of Human Remains is reproduced below from the June 1986 Bulletin. Any questions or comments concerning this position should be directed to Keith Kintigh, Department of Anthropology, Arizona State University, Tempe, AZ 85287-2402.

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pu

### SAA Statement Concerning the Treatment of Human Remains

Archaeologists are committed to understanding and communicating the richness of the cultural heritage of humanity, and they acknowledge and respect the diversity of beliefs about, and interests in, the past and its material remains.

It is the ethical responsibility of archaeologists "to advocate and to aid in the conservation of archaeological data," as specified in the Bylaws of the Society for American Archaeology. Mortuary evidence is an integral part of the archaeological record of the past culture and behavior in that it informs directly upon social structure and organization and, less directly, upon aspects of religion and ideology. Human remains, as an integral part of the mortuary record, provide unique information about demography, diet, disease, and genetic relationships among human groups. Research in archaeology, bioarchaeology, biological anthropology, and medicine depends upon responsible scholars having collections of human remains available both for replicative research and research that addresses new questions or employs new analytical techniques.

There is great diversity in cultural and religious values concerning the treatment of human remains. Individuals and cultural groups have legitimate concerns derived from cultural and religious beliefs about the treatment and disposition of remains of their ancestors or members that may conflict with legitimate scientific interests in those remains. The concerns of different cultures, as presented by their designated representatives and leaders, must be recognized and respected.

The Society for American Archaeology recognizes both scientific and traditional interests in human remains. Human skeletal materials must at all times be treated with dignity and respect. Commercial exploitation of ancient human remains is abhorrent. Whatever their ultimate disposition, all human remains should receive appropriate scientific study, should be responsibly and carefully conserved, and should be accessible only for legitimate scientific or educational purposes.

The Society for American Archaeology opposes universal or indiscriminate reburial of human remains, either from ongoing

excavations or from extant collections. Conflicting claims concerning the proper treatment and disposition of particular human remains must be resolved on a case-by-case basis through consideration of the scientific importance of the material, the cultural and religious values of the interested individuals or groups, and the strength of their relationship to the remains in question.

The scientific importance of particular human remains should be determined by their potential to aid in present and future research, and thus depends on professional judgments concerning the degree of their physical and contextual integrity. The weight accorded any claim made by an individual or group concerning particular human remains should depend upon the strength of their demonstrated biological or cultural affinity with the remains in question. If remains can be identified as those of a known individual from whom specific biological descendants can be traced, the disposition of those remains, including possible reburial, should be determined by the closest living relatives.

The Society for American Archaeology encourages close and effective communication between scholars engaged in the study of human remains and the communities that may have biological or cultural affinities to those remains. Because vandalism and looting threaten the record of the human past, including human remains, the protection of this record necessitates cooperation between archaeologists and others who share that goal.

Because controversies involving the treatment of human remains cannot properly be resolved nation-wide in a uniform way, the Society opposes any federal legislation that seeks to impose a uniform standard for

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determining the disposition of all human remains.

Recognizing the diversity of potential legal interests in the material record of the human past, archaeologists have a professional responsibility to seek to ensure that laws governing that record are consistent with the objectives, principles, and formal statements of the Society for American Archaeology.

Executive Committee  
The Society for American Archaeology  
New Orleans, Louisiana  
May 1986

(Reprinted from Bulletin 4(3):7-8, June 1986).

## Foundation for American Archaeology

The fact that you are reading the SAA Bulletin tells us something about you. To begin with, you are vitally interested in archaeology and probably earn your living in the discipline in one capacity or another. Moreover, you very much want to keep up with the latest news about your Society.

You should be pleased, then, to learn that the Agnese N. Lindley Foundation in Tucson, AZ has offered the SAA a \$2,000 challenge grant for funds needed for legal fees to establish a Foundation for American Archaeology, search for a managing director and print brochures.

If you attended the National meetings held in Atlanta, you know that the SAA authorized the establishment of a Foundation for American Archaeology along the outlines presented in the March 1989 issue of the Bulletin.

The goal of the Foundation is to provide education to individuals, all levels of government that affect archaeology, and corporations concerned with archaeology. The Foundation will respond in various ways to the numerous opportunities that occur for education about issues of pothunting and concerns about reburial and the repatriation of artifacts.

There presently is no formal structure to address the many demands and opportunities to educate the public about the true nature of the discipline of archaeology. The public gets their information about archaeology from popular movies, and from sensational news accounts. The success of films and articles about archaeology indicates there is tremendous public interest in the subject, which forms a natural constituency for support of archaeological research. The Foundation would tap this interest for education about the true nature of archaeology. The establishment of this

Foundation is essential, for the discipline has never faced such grave challenges nor such a receptive audience.

In order to put these ambitious plans in motion, George Gumerman was asked to chair a task force composed of Dena Dincauze, Brian Fagan, Mark Leone, William Marquardt, Stuart Strucver, and Daniel Thiel.

We are pleased to report that their efforts are bearing fruit and the challenge grant is a giant step in the right direction. What is now needed is for the SAA membership to match the \$2,000 offered by the Agnese N. Lindley Foundation. Obviously \$4,000 is only a beginning, but it is a start.

This is a modest sum. A five or ten dollar donation or more from everyone who reads this will quickly match the requisite amount. Since you have already demonstrated your interest in archaeology by the simple exercise of reading this, you will surely want to help make the Foundation a reality by contributing toward the \$2,000 challenge. You are, after all, not only contributing to your profession but, in all probability, toward your own livelihood.

Checks of any amount should be made out to: The Foundation for American Archaeology, and sent to: Society for American Archaeology, 808 17th St, NW, Suite 200, Washington, D.C. 20006.

## SAA Succeeds in Congress

by  
Loretta Neumann and Kathleen Reinburg  
SAA Office of Government Relations

Money and reburial have headed the list of issues Congress has been tackling over the last several months. The latter is discussed in detail by Keith Kintigh in this issue of the Bulletin (see page 1, "Reburial and Repatriation"). The following summarizes some of the issues for which the SAA has been lobbying.

SAA achieved several major successes in the fiscal 1990 appropriations for Interior and Related Agencies. In a year with tight fiscal constraints placed on legislators, the outcome for cultural resource protection programs in the federal agencies was surprisingly good. SAA sought and obtained \$18.2 million for the Forest Service cultural resource management programs. This is an increase of over \$2 million compared to last year. The Historic Preservation Fund was increased to \$32.75 million. Last year it received \$30.5 million. Special add-on funds were provided for several programs. The National Park

Service was given \$500,000 to pursue anti-looting efforts in the National Park Service and \$100,000 to begin preservation technology transfer. The Bureau of Land Management was provided \$200,000 for cultural resource law enforcement in the four corners area.

In addition, the Senate included language in the National Science Foundation appropriations report which encourages NSF to provide funds for archaeology research within the biological, behavioral and social science directorate. This is the first time that archaeology has been mentioned in the appropriations report and we hope to gain support for increases in funding of archaeology at NSF.

Senator Fowler (D-GA) introduced S. 1579, National Historic Preservation Policy Act on August 4. It would amend the National Historic Preservation Act, Historic Sites Act, Archaeological Resources Protection Act, and the Abandoned Shipwreck Act to strengthen the protection of historic heritage and resources, provide for treatment of human remains, develop training and education programs, strengthen state and tribal preservation programs, develop certification for archaeologists, and implement an artifact registration system. In addition, Senator Fowler introduced S. 1578, to create an independent historic preservation agency and national center for preservation technology. SAA worked on a number of provisions in these two bills to improve them with respect to archaeology.

The SAA testified in support of expanding the Chaco Protection System (S. 798) and establishing the Petroglyph National Monument in New Mexico (S. 286); designating the Amistad National Recreation Area in Texas (H.R. 967), reauthorizing the Bureau of Land Management programs (H.R. 828), and establishing the National Museum of the American Indian (H.R. 2668 and S. 978).

For information on these and other bills, call the Congressional Bill Status office, (202) 225-1772. To obtain copies of House bills call (202) 225-3456 or write to House Document Room, H-226 Capitol, Washington, DC 20515. For Senate bills, write to Senate Document Room, SH-B04 Hart, Washington D.C. 20510.

## Dues Increase Crucial to Future

The Society for American Archaeology is financially sound. Now that we have finished the long range study of the Society, and have a new set of Bylaws strongly endorsed by the membership, we are in a position to build for the next decade and more. Much of the dues increase announced in the last Bulletin will go to help build

BY THE RESOURCES COMMITTEE  
IN THE HOUSE

HOUSE BILL NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making special appropriations to the Department of Revenue, the Department of Natural Resources and the Department of Fish and Game for settlement of litigation concerning conveyance of limited timber cutting rights to the University of Alaska; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. The sum of \$1,968,511 is appropriated from the general fund to the Department of Revenue for deposit in the University of Alaska Trust Fund as partial payment for acquisition of the university's timber cutting rights at Cape Suckling (tract A148).

\* Section 2. The sum of \$134,000 is appropriated from the general fund to the Department of Natural Resources and the sum of \$93,000 is appropriated from the general fund to the Department of Fish and Game for fiscal year 1991 costs for preparation and adoption of an area plan for state lands in the Icy Bay to Cape Suckling area.

\* Section 3. The sum of \$\_\_\_\_\_ is appropriated from the general fund to the Department of Natural Resources for costs of reappraisal of the University of Alaska's limited timber cutting rights at Cape Suckling.

\* Section 4. The sum of \$\_\_\_\_\_ is appropriated from the general fund to the Department of Natural Resources for costs of surveying state lands at Reed Island and Upper George Inlet.

\* Section 5. The unexpended balance of appropriations made in this Act lapse into the general fund on December 31, 1992..

\* Section: 6. This Act takes effect on the day following approval by the Alaska Superior Court in consolidated Case No. 1JU-88-271 Civil of a legal settlement between the City of Yakutat, the Southeast Alaska Conservation Council (SEACC) et al, the Department of Natural Resources, and the University of Alaska Board of Regents which provides for sale of the university's Cape Suckling limited timber cutting rights to the State of Alaska, and which settles other legal issues concerning the university's timber cutting rights at Cape Yakataga and White River.

### Letter of Intent for

"An Act making special appropriations to the Department of Revenue, the Department of Natural Resources and the Department of Fish and Game for settlement of litigation concerning conveyance of limited timber cutting rights to the University of Alaska; and providing for an effective date."

It is the intent of the legislature that the settlement of SEACC et al v. Gorsuch (Consolidated Case No. 1JU-88-271) provide for repurchase of the University of Alaska's limited timber cutting rights at Cape Suckling (tract A148), for time for completion of an area plan for the Icy Bay to Cape Suckling area prior to any timber harvest at Cape Yakataga (tract 20), and for the otherwise unhindered exercise of limited timber cutting rights at Cape Yakataga and White River (tract 52) consistent with the terms and conditions of Appendix I to ADL 223456 as modified by the finding and decision on remand.

The legislature intends to compensate the university for the Cape Suckling limited timber cutting rights based on a new appraisal which establishes the value of the affected timber as of the effective date of this Act from the following sources:

- 1) An appropriation of \$1,968,511 to the University of Alaska Trust Fund in the Department of Revenue;
- 2) If the appraisal exceeds \$1,968,511, transfer of all or a portion of Reed Island (tract 57, valued at \$1,762,500) and/or Upper George Inlet (tract 78, valued at \$206,000);
- 3) If the appraisal exceeds \$3,937,091, the legislature intends to appropriate additional amounts from the general fund, transfer state mortgage contracts, and/or transfer other state assets to the university until the full appraisal price is reached.

It is the intent of the legislature that an area plan for state lands in the Icy Bay to Cape Suckling area be completed under AS 38.05.065 and DNR regulations on or before December 31, 1992. DNR shall coordinate preparation and review of the area plan with ADF&G on fish & wildlife habitat protection issues, and consider management options for protection and enhancement of fish and wildlife habitat and populations, sport and subsistence hunting and fishing, recreation, tourism and scientific values, settlement, timber harvest, mining, material extraction, and other uses the department considers appropriate. DNR shall establish a temporary Citizens' Advisory Commission to assist in preparation and review of the area plan. If the area plan precludes exercise of all or a part of the university's limited timber cutting rights at Cape Yakataga, the legislature intends to compensate the university in cash at the then-current market value as determined by appraisal.

It is the intent of the legislature that the university and DNR develop a plan for harvest of White River trees in accordance with the Forest Practices Act as revised during the 1990 legislative session and in accordance with provisions of the 1988 settlement and the 1989 final finding by the commissioner.

## SECTIONAL ANALYSIS

by Staff to Representative Davidson

SECTION 1: Adds a new section to the Coroner's Inquest, (AS 12.65) that deals with the discovery of human remains. There is currently no directive to the public as to what procedure to follow when human remains are discovered. This section mandates that the remains are not disturbed and their presence reported. If the remains are found to be unrelated to a prosecutable offense, the Department of Natural Resources is notified. A person who fails to follow this procedure is guilty of a Class A misdemeanor.

The bill makes it illegal to sell, buy or barter human remains. Also, human remains may not be displayed unless it is in connection with a funeral or burial or as required for medical or law enforcement activities. A violator of this section is guilty of a Class A misdemeanor.

SECTION 2-10: Amends or adds to the **Alaska Historical Preservation Act, AS 41.35.**

SECTION 2- 5: Brings the Alaska Historical Preservation Act in compliance with the new additions in Sections 9 and 10.

SECTION 6: Brings the DNR's historical resource permitting process in compliance with the new language dealing with human remains and funerary objects.

SECTION 7: Requires notice to be given to DNR by those who have an historical site or state monument on their property before any construction, alteration or improvement is undertaken. The **section is amended** to include contacting the identifiable tribe of origin when human remains are involved.

SECTION 8: Definitions.

SECTION 9: **NEW SECTION.** Adds to the Alaska Historical Preservation Act the procedure to follow when human remains and funerary objects are discovered.

AS 41.35.400 is a policy statement that no person can have title to human remains, only the right to disposition. The

right to disposition lies with the state unless the decedent's living relatives or tribe are reasonably identifiable.

AS 41.35.410 outlines the procedure to follow upon the discovery of human remains that are not related to law enforcement activities. If the human remains are not disinterred, the department shall leave them in place where they are interred. If the remains have been disinterred, the department shall contact the decedent's living descendants with the closest kinship or the tribe of origin. When the kinship is not known, the closest tribe in the proximity of the discovery shall be notified.

After contact and upon request, the remains or funerary objects shall be returned by DNR so the descendants or tribe may dispose of them. If there is no response within 120 days, DNR shall treat the human remains as they treat other unclaimed human remains or historic resources, as applicable.

A tribe may enter into a contract with a person for study of the human remains before disposal.

AS 41.35.420 creates a dispute committee appointed by the Governor to resolve disputes concerning the tribe of origin.

SECTION 10: NEW SECTION. This section defines the procedure to follow for those remains currently being held. It mandates those in possession of human remains to contact DNR within 120 days. The department shall then prepare an abstract containing indexed information related to the reports received. After compilation, the department shall send the abstract to the governing body of each tribe in the state. The tribes may file a claim with the department to request return of remains listed on the abstract.

The dispute resolution committee shall address any duplicated claim. If there is not a claim filed within 120 days after receipt of the abstract, the department shall take possession or enter into an agreement with persons or institutions for protective custody of the remains.

THE HRDLICKA LEGACY AND KONIAG SPIRITS

by

Gordon L. Pullar  
Past President, 1983-1989  
Kodiak Area Native Association

Presented at the

CIRCUM-PACIFIC PREHISTORY CONFERENCE  
August 2-6, 1989  
Seattle, Washington

THE HRDLICKA LEGACY AND KONIAG SPIRIT  
BY  
GORDON L. PULLAR

During the 1930's Ales Hrdlicka, the curator of the Division of Physical Anthropology of the U.S. Museum of Natural History at the Smithsonian Institution, removed some 812 skeletal remains of the Native people from Kodiak Island, Alaska. The majority of the skeletons were taken from the village of Larsen Bay and are currently unceremoniously stored in the Smithsonian's Museum of Natural History where they make up a portion of the 18,500 Native American skeletons the Smithsonian holds (Lowen, 1988, Preston, 1989, Spotted Elk, 1989). Intensified efforts are now underway by the Native people of Kodiak Island to have the remains of their ancestors returned to the island for reburial. The effort, led by the village of Larsen Bay and the island-wide Kodiak Area Native Association, has thus far been rebuffed by the Smithsonian that claims, just as it has in other requests, that the skeletons are needed for scientific study (Brookes, 1988).

Recent scientific evidence suggests that Native people have inhabited Kodiak Island, Alaska, for nearly 8,000 years (Jordan, 1987:4). The first contact with western Europeans came just over two hundred years ago with the sighting of Kodiak Island from a Russian ship in 1761 and the first Russian settlement there in 1783 (Hrdlicka, 1944). At the time of this first contact with the Russians, there were 65 villages on the island (Tikhmeniev,

1861, from Hrdlicka, 1944) occupied by the Koniagmiut or Koniags, the island's aboriginal people. Today, there are six Koniag villages in the Kodiak Island group. They are Akhiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie and Port Lions. Additionally, the town of Kodiak contains a Native community (Davis, 1984: 199). The estimated population of Koniags on Kodiak Island today is 2,500.

The Koniag village of Larsen Bay is located on the small bay of the same name which branches off the much larger Uyak Bay on the west coast of Kodiak Island. The current population of the village is 217 (Kodiak Area Native Association, 1988 Annual Report). A large salmon cannery was built in Larsen Bay in 1888 (Roppel, 1986) and continues in operation today. The village is governed by a tribal government with an elected council. A second class municipal government was also formed under the laws of the State of Alaska. A village corporation, Nu-Nacht-Pit, Inc., was established under the Alaska Native Claims Settlement Act of 1971, but ceased to exist in 1980 when it merged with the regional corporation, Koniag, Inc.

In 1926, Ales Hrdlicka, under the auspices of the Smithsonian Institution, undertook an anthropological survey of Alaska (Hrdlicka, 1944:1). His efforts ended with the 1938 summer season. Beginning in 1931 and ending in 1937, he excavated in the village of Larsen Bay (Hrdlicka, 1944:1 & 140). His stated

purpose of these excavations "was to secure the skeletal materials which the site evidently contained." (Hrdlicka, 1944:140). The purpose of the entire Alaska survey was, in Hrdlicka's words, "to learn whatever might still be possible about the living remnants of the native populations, and to gather skeletal remains that would supplement the study of the living . . ." (Hrdlicka, 1944:1). It is quite apparent that he viewed Native people as being on the road to extinction. He would, undoubtedly be very surprised that Larsen Bay is still a thriving Native community.

While Hrdlicka's name has long been prominent in the field of physical anthropology, it appears that his formal education in anthropology was limited to four months in Paris in 1896 (Stewart, 1940:8). Hrdlicka, born in Bohemia in 1869, immigrated to New York with his father in 1882 (Stewart, 1940:4). He graduated from Eclectic Medical College in New York in 1892 and from the New York Homeopathic Medical College in 1894 (Stewart, 1940:6-7). His first actual fieldwork in anthropology came in 1899 when he was given charge of the physical and medical anthropological research on the Hyde Expedition to the American Southwest and Mexico for the American Museum (Stewart, 1940:11). In 1903, he was appointed to be in charge of the new Division of Physical Anthropology at the Smithsonian (Stewart, 1940:12, Hinsley, 1981:281).

It was while he was under the employ of the American Museum of Natural History in New York that the first stark signs appeared of what would become a lifelong relationship between Hrdlicka and the dead of Native peoples. The arctic explorer Robert Peary brought back six Eskimos to New York from Greenland and left them at the American Museum (Harper, 1986:34, Preston, 1989). Four of the six soon became ill and died and Hrdlicka, in collaboration with the famed anthropologist, Franz Boas, found the opportunity to study the same Native people both in life and in death (Preston, 1989, Harper, 1986). Hrdlicka had the four Eskimos, that he had measured and photographed in life, boiled so that their flesh could be removed from their skeletons (Preston, 1989). One of the deceased, Qisuk, was the father of Minik, who, at age eight, was one of the survivors. A fake funeral and burial was staged for the benefit of Minik and it was some years later that he made the shocking discovery of his father's skeleton on display at the museum (Harper, 1986:97). A final indignity for Qisuk was that Hrdlicka saved his brain and in 1901 published an article on it, complete with photographs, titled "An Eskimo Brain" (Harper, 1986:97). This article was just the first of several with ghoulish titles such as "New Examples of American Indian skulls with low forehead" (1908), "Catalogue of Human Crania in the U.S. National Museum", (1925), and forty years later, "Diseases of and artifacts on skulls and bones from Kodiak

Island" (1941a) and "Artifacts on human and seal skulls from Kodiak Island" (1941b).

While Hrdlicka's work of digging up Native burials may often be referred to as archaeology, it appears that even he set himself aside from that discipline saying, "And it is hoped also that our archaeological friends will no longer stand aloof, as so often in the past, but will collaborate with us to rescue not alone the evidence of man's activities, but the precious skeletal remains encountered in their excavations of ancient historic sites." (1919). Even though archaeology was a young and developing discipline at the time of Hrdlicka's digging on Kodiak Island, his techniques of excavation were inadequate even by the standards of the time (Jordan, 1987:8).

Hrdlicka seemed to feel that lack of organized objection from the Natives implied permission to remove the remains of their dead. He also claimed that he was taking only very old remains which he reasoned the Natives would not care about anyway. He said the collecting of the skeletons was ". . . carried on with the full knowledge of the natives and often in their view with their assistance. They were told that I wanted only the old "heathen" remains in which no living person had any interest; that the bones were needed for studies and for comparisons of the development, the type, and the diseases of the old with those of the present people; and that they would be treated with all

possible consideration" (1931:125).

Once again, Hrdlicka's concepts of "old" or prehistoric certainly differed from those of professional archaeology. While archaeologists speak in terms of hundreds or thousands of years, Hrdlicka's "old" was much more recent. In one incident that took place in a Yukon River Village, that he described in two different publications, he removed the skeleton of a man buried in a grave under a Russian Orthodox cross marker. He estimated the man to have been dead for thirty years (1930:139, 1943:235). In one of the descriptions of the incident, he said, "But just as the parts were all gathered, I saw below (the grave was on a slope) an old woman who appeared to be provoked at something and was talking to herself rather loudly. On sending the Indian who accompanied me down to see what the trouble was, I learned that the old woman claimed the bones to be those of her long departed husband . . . ." (1930:139). Hrdlicka then put the skeleton back and "covered as well as possible" (1943:235) which he said was "to the complete satisfaction of the old dame . . ." (1930:139). Hrdlicka obviously did not always have the permission he claimed to have.

And indeed, Hrdlicka himself published accounts of secretly stealing and concealing skeletons from interior Alaska villages. (1930b:55). He also speaks of some remains he excavated and upon opening the coffins found them to be "too fresh yet" (1930:76)

and of other cases where he did take remains that still had "soft parts". (1930b:58).

So what was Ales Hrdlicka? . . . scientist? grave robber? . . . racist? There is evidence in his writings to suggest that he had a concern for preserving the purity of the white race. In 1919, he wrote, "The paramount scientific object of Physical Anthropology is the gradual completion, in collaboration with the anatomist, the physiologist, and the chemist, of the study of the normal white man living under ordinary conditions," (1919:22). He stated further, "Associated with racial studies, but of more direct and serious concern to many nations, particularly the American, are investigations into the physical, physiological, and intellectual effects of racial mixtures on progeny. Mixture of colored races with the white are largely controllable by law and general enlightenment, and if found detrimental could be reduced to a minimum. In the United States we are confronted on the one side with the grave problem of mixture of white and negro, and on the other with that of white and Indian" (1919:24).

Further, but more subtle, evidence of Hrdlicka's attitude is found in his book, The Anthropology of Kodiak Island (1944), where he capitalizes the word "White" in white man but does not capitalize the word "Native". (P. 127, 136, 153). Also in his writings on his Alaska experiences, he praises white people,

crediting them by name, for assistance given, but does not mention many Natives by name. There is rare mention of the Native residents of the village of Larsen Bay even though he spent six summers digging there.

Hrdlicka names the site of the Larsen Bay excavations Jones Point in honor of Laura Jones, the wife of the local cannery superintendent who helped in the excavations (1932:99). In a rare mention of the local Native residents, he expressed concern for leaving some equipment behind over the winter as it would be at the "mercy of nearby mixbreeds" (1944:318). Other writings such as an article for Good Health Magazine titled, "A danger to the American people from assimilation of the colored population" (March 9, 1928) seem to confirm his belief in white superiority.

The Smithsonian has agreed to return the remains of Native American individuals to tribes if they could be identified by name or if they were taken illicitly (Adams, 1987, Lowen, 1988, Robbins, 1988). As the customs of prehistoric Koniag differed from those of western societies, there are no gravestones or burial records identifying by name those who died so long ago. Just the same, the Koniag people of today know that these are the remains of their ancestors and do not need specific names attached to them to know they must be treated with respect. To the pre-contact Koniag, death did not represent an end of interpersonal relationships as the dead were kept close by in the sealed

off siderooms of their semi-subteranean houses, called barabaras (Clark, 1984, from Merck, 1980:108).

The Smithsonian maintains that Hrdlicka had permission to remove the skeletons from Larsen Bay and that local Natives actually assisted him in the excavations (letters from A. Kaepler, Smithsonian, to Larsen Bay Tribal Council, Sept. 25, 1987 and Feb. 16, 1988). The people of Larsen Bay vigorously dispute this (letters from Larsen Bay Tribal Council President, Frank Carlson, to A. Kaepler, October 27, 1987, and April 15, 1988). Dora Aga, the matriarch of Larsen Bay, remembers Hrdlicka well. In response to the Smithsonian's claim that local Natives assisted Hrdlicka, she exclaimed, "No way! He wouldn't let nobody get near that place!" (personal interview July 18, 1989). The Smithsonian also claims that no one objected to his work at Larsen Bay (Kaepler letter, Feb. 16, 1988). This claim also infuriates Dora Aga, who said several people, including herself, objected. "I called him every name in the book," she said, "Him and I were no friends at all" (personal interview July 18, 1989).

When considering whether or not permission was given to Hrdlicka to remove skeletons from Larsen Bay, it must be asked who in the village had authority to give such permission. According to Dora Aga, there was no one with such authority. Who could have the authority to give away the remains of his or her ancestors? It must also be realized that the intimidation factor

of a group of white men from Washington, D.C. coming into a remote 1930's Alaska Native village must have been tremendous. "We were green in them days," said Dora Aga, "we didn't know anything about laws" (personal interview July 18, 1989).

Due to the stance the Smithsonian has taken on the issue of repatriation of human remains to Native groups, there may be just two options available to the Natives of Larsen Bay and Kodiak Island. One is to hope for a legislative cure. Thus far such legislation has been unsuccessful. There is, however, legislation pending in Congress that would provide some remedy. These bills are H.R. 1646, the "Native American Grave and Burial Protection Act"; H.R. 1381, the "Native American Burial Preservation Act of 1989" and H.R. 1124, the "Indian Remains Reburial Act".

Another possibility is legal action, challenging the Smithsonian's legal right to hold the remains. Steps are currently being taken by Larsen Bay Tribal Council to pursue this legal avenue with the assistance of the Native American Rights Fund, a national Native American legal advocacy organization.

The struggle of Kodiak Island's Native people to have the remains of their ancestors returned for reburial is of even greater significance than the need to respect the dead. The Native population of Alaska is undergoing an epidemic of self-destruction, including alcohol and drug abuse, family violence and suicide (AFN, 1989) and Kodiak Island is no exception. One

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of the fundamental causes for this epidemic is the disintegration of traditional cultures and the resulting loss of self-esteem (G. Pullar, testimony, U.S. Senate Select Committee on Indian Affairs, March 3, 1989). If young Native individuals are led to believe that it is acceptable and proper for the government of the United States to "own" the bodies of their grandfathers, grandmothers and other ancestors, then how can they possibly believe that they are equal to all others in this country?

Frank Carlson, the president of the Larsen Bay Tribal Council, in his plea to the Smithsonian for the return of the ancestral remains, wrote, "These studies have been going on for over fifty years and we believe it is time to return the skeletal remains to Larsen Bay. We believe you would not invade non-Native grave sites in this manner. Are they not worth study? (letter to A. Kaeppler, Smithsonian, April 15, 1988).

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UNIVERSITY OF ALASKA FAIRBANKS

Department of Anthropology  
Fairbanks, Alaska 99775

Representative Curt Menrad,  
Alaska State Legislature,  
Pouch V, Mail Stop 3100,  
Juneau, AK 99811

February 8 1990

Dear Mr. Menard:

As Co-Chair of the Resources Committee, I want you to understand the strong professional and personal concerns I have regarding the proposed legislation, Bill No. 436, "An Act relating to the protection of Alaska Native unmarked burials". I would be happy to be highly specific for you at a later time, but in general my concerns relate to infringements on professional activities, group-specific protectionist policies that place the rights of certain individuals over others, restrictions on the rights to personal property, overtones of racism, control of information, and outright mistakes in language and intent, all of which I read quite clearly in this bill.

As a professional anthropologist and archaeologist who has worked in this state since 1981, I feel my concerns are well-founded and justified. It is particularly surprising to me and my colleagues that we became aware of this bill in an "after the fact" manner. There is a professional association in this state called the Alaska Anthropological Association which would have been pleased to have input on this bill before this point. As it is the Association will be holding its annual meeting in Fairbanks, March 8 to 10, 1990, and I, along with Dr. John Cook of the Bureau of Land Management, and Susan Morton of the National Park Service will be organizing a detailed discussion of this proposed legislation. The context will be the Interagency Archaeological Group meeting, to be held Thursday, March 8, 1990 at 2:00 pm in the BLM Conference Room in their Fairbanks offices on University Avenue. Our list of invitees will include you, and your committee members, representatives of Native organizations, and interested professionals. I'm sure you will want to attend this meeting.

At the moment, I think it is important for you and your Committee members to set this bill aside for the time being, until some reasonable appropriate text can be written that will address the needs of all affected individuals. While I think it is laudable that similar legislation be considered, and I believe such ammendments to the current law are needed, this is not the one that you should be considering for submission to the legislature. I will be anxiuos to hear your reply.

Very truly yours,



M.E. Colleen Lazenby,  
Anthropologist/Archaeologist,  
Conference Coordinator,  
Department of Anthropology.

MECL/cl

cc: C. Davidson  
M. Davis  
B. Sharp  
J. Cook



UNIVERSITY OF ALASKA FAIRBANKS

Department of Anthropology  
Fairbanks, Alaska 99775

Thursday, February 8, 1990

Representative Cliff Davidson  
Natural Resources Committee  
Alaska State Legislature  
Pouch V, Mail Stop 3100  
Juneau, AK 99811

Dear Mr. Davidson:

I am writing you in regard to the proposed legislation, Bill No. 436, "An Act relating to the protection of Alaska Native unmarked burials." The proposed legislation cuts to the heart of many complex matters but will only exacerbate the threat to the burials it aims to protect. As a practicing archaeologist, working in Alaska for the last 10 years, I have encountered many sites and without excavation it is impossible to assign cultural origins--if it is possible at all. The proposed legislation assumes that it is possible and allows a certain class of citizen full and complete access to disturb them, if so willed. This is clearly unconstitutional. Another equally disturbing part of the proposed legislation involves the establishment of the Alaska State Troopers as a permitting agency for the undertaking of archaeological work in the state. Obviously, the Troopers have no expertise in the matter and may once again exacerbate the situation, as occurred last summer in Prince William Sound.

As you may know, the State of Alaska does already possess a permitting procedure (Parks and Recreation...) and an organization of professional anthropologists and archaeologists. What the state requires is motivation and funding to initiate a comprehensive policy to protect and survey archaeological resources. Many other states provide considerably more funding toward these ends. Why doesn't your office undertake some truly important action, rather than pandering to public opinion. I am appalled by the lack of foresight and intelligence contained in the proposed legislation!

Sincerely yours,

*O. Mason*

Owen K. Mason

cc: C. Menard



**UNIVERSITY OF ALASKA FAIRBANKS**

**Department of Anthropology  
Fairbanks, Alaska 99775**

February 8, 1990

Resources Committee  
Alaska House of Representatives  
Room 108, Capitol  
PO Box V  
Juneau, AK 99811

Dear Committee Members:

I have just recently learned of House Bill 436. I am very concerned that your committee is moving ahead with this proposed legislation without consulting with a large number of Alaska residents who are interested and informed about these issues--the community of professional archaeologists and anthropologists.

As an archaeologist who has worked in the state for 12 years in cooperation with Native groups, I believe that the appropriate state agency to be authorized to address these issues is the State Office of History and Archaeology. The treatment of human skeletal remains and associated funerary items is an important issue that deserves a great deal of attention. I believe that the Office of History and Archaeology should be the lead agency charged with developing a coherent policy for treatment of human remains in consultation with local Native groups. The Office of History and Archaeology should also be allocated additional resources to fulfill these new responsibilities. The Office of History and Archaeology staff is already overworked and, in my experience, has had insufficient funds to survey, test and monitor construction projects on state lands. Furthermore, they have had insufficient resources to properly analyze archaeological material that have already been salvaged from sites damaged by state-sponsored construction projects. In addition, they have had inadequate resources for monitoring state construction projects or monitoring for vandalism and theft already occurring on state lands. They deserve to have more authority, a larger staff, and more financial resources to fulfill their many responsibilities.

The Department of Public Safety might be involved in support of the Office of History and Archaeology. In particular, they could devote attention to apprehending those individuals who continue to excavate and vandalize archaeological sites illegally.

I know that I have not commented on the specifics of the proposed bill. I feel it is so ill-conceived that it may be necessary to start from scratch. I support your efforts at addressing these important issues, but urge you to seek involvement from a wide range of concerned citizens, including professional anthropologists.

Sincerely,

Madonna L. Moss, Ph.D.

Assistant Professor of Anthropology



**UNIVERSITY OF ALASKA FAIRBANKS**

**Department of Anthropology**  
Fairbanks, Alaska 99775

7 February 1990

Representative Cliff Davidson  
Alaska House of Representatives  
Room 108 Capital  
P.O. Box V  
Juneau, AK 99811

Dear Representative Davidson:

As an anthropologist, I am altogether in favor of laws aimed at preserving the state's historic, prehistoric, and archaeological resources. However, these laws should be carefully thought out and deliberated upon by all relevant parties prior to enactment. In reference to House Bill No. 436, it is not clear who wrote this document, but little input is evident from those individuals most directly involved in uncovering, preserving, interpreting, and displaying the state's rich cultural heritage, i.e. anthropologists, archaeologists, museum curators, etc.

My specific area of expertise is physical anthropology and it is this branch of the discipline that treats, among many other things, human skeletal remains. On the one hand, I am intimately familiar with the diverse types of scientific information that can be obtained through the analysis of skeletal material. On the other hand, I am sensitive to the native community's views on the disinterment of human burials. It is my position, for example, that recent human skeletal material (100-150 years old) does not fall within the province of what I do and should be left well enough alone. In fact, I have excavated small native "cemeteries" in Kotzebue, Nome, and Barrow, at the request of local governments and/or regional corporations [sites were to be impacted by construction projects], that dated to around the turn of the 20th century. After exhuming the remains, they were all placed in newly constructed coffins and reburied under the direction of the appropriate local officials.

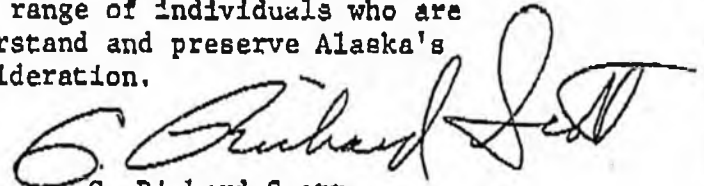
Although I feel that recent human skeletal remains should be reburied according to a local community's wishes, the issue becomes far more complex when dealing with ancient human remains. The further back one goes in prehistory, the more complicated issues of ancestry become. If there is one thing that is certain in human history it is this: people move around. Although many Anglo-Americans now live in Fairbanks, no one would assume that Anglo-Americans had always lived in Fairbanks. However, the same people who would NOT ASSUME that, do assume that the distribution of Alaskan natives at the time of contact does reflect their distribution deep into prehistory. This assumption grossly underestimates the ability of earlier Alaskan native groups to disperse across the landscape (and there is much evidence for such dispersals).

UNIVERSITY OF ALASKA FAIRBANKS

Representative Cliff Davidson  
page 2

In the proposed house bill no. 436, the following phrase is used several times: "whenever the tribal or cultural origins of the remains or objects are reasonably identifiable." "Reasonably identifiable" is defined subsequently in terms of "preponderance of evidence." What is the nature of this evidence and who makes the determinations? There is only one scientific discipline in this country which specializes in the analysis and interpretation of earlier human cultural and physical remains: anthropology. Within the discipline, archaeologists assess prehistoric and protohistoric cultural remains while physical anthropologists are trained to analyze human skeletal remains. In fact, the Department of Public Safety has utilized my expertise in dozens of cases (at no cost I might add) when unidentified skeletal material came to their attention.

This is simply not the time or place to address the many issues and implications of house bill no. 436. I would, however, suggest that you and your colleagues seek input from a wider range of individuals who are directly involved in efforts to better understand and preserve Alaska's cultural heritage. Thank you for your consideration.



G. Richard Scott  
Professor of Anthropology  
Department of Anthropology  
University of Alaska Fairbanks  
Fairbanks, AK 99775  
(907) 474-6755





UNIVERSITY OF ALASKA FAIRBANKS

INSTITUTE OF ARCTIC BIOLOGY  
Fairbanks, Alaska 99775-0180 U.S.A.

(907) 474-7040

FAX: (907) 474-0987

February 7, 1990

Representative George Jacko  
Alaska House of Representatives

Dear Representative Jacko:

I understand that you are cosponsoring ~~HB 433~~ a bill to amend the Alaska state historic preservation act. I am very glad to see you and other legislators working to improve historic preservation legislation in our state. I am also glad to see you taking up the issue of Native rights in relation to human remains and grave objects. These are important issues, deserving careful consideration.

As an archaeologist/anthropologist who has worked extensively on historic Native sites, including major projects for the North Slope Borough and Doyon, Ltd. I am keenly aware of and sympathetic with the concerns Native people have for cultural resources that are rightfully theirs. In the past archaeologists and physical anthropologists often have not respected Native concerns in these matters. I am painfully aware, for example, of the anguish and anger aroused by the activities of Ales Hrdlicka and some of his contemporaries. A few of my colleagues still display outmoded attitudes on these issues, but many people working in the field of cultural resources today appreciate Native people's concerns and would like to see enacted workable legislation that respects Native views.

After reading HB 433, however, I have some real concerns about whether this bill can achieve the goals its authors have in mind. I also believe there are some additional goals of potential benefit to Native people--as well as others with buried ancestors in Alaska--that are omitted. Let me indicate just a few of the problems I see with the bill and suggest a course that I feel would have broad benefits for all Alaskans.

For example, to be really workable, ~~HB 433~~ ~~must~~ ~~include~~ ~~some~~ ~~provisions~~. How are tribes or cultural groups who will have a number of rights under the bill to be designated? The definition of "reasonably identifiable" is very weak, the preponderance of evidence is often not the best or most scientifically sound way to make an identification. Sometimes wrong or inaccurate identifications get perpetuated in the scientific literature, making up a "preponderance of the evidence" but then later are

Representative George Jacko  
February 7, 1990

shown to be wrong. What will happen when items can be identified with a tribe or cultural group that have no living descendants? Would a site containing graves from such a group be ineligible for designation as a state monument or historic site because there is no one to give written consent?

A more serious issue is language in section AB 41.25.010 (d) and (h). For some time the principle of curvay and mitigation in advance of construction projects has been a standard mode of operation. This section fails to make this standard practice part of the law, thus potentially taking historic preservation efforts back 15 or more years, and possibly creating serious economic hardships for construction projects. Further, section (h) fails to specify any clear mechanism for returning human remains or funerary objects to the group of origin. There are other problematic sections that I could cite as well, but my point is not to be overly critical. My point is simply to say that the bill needs much more careful thought and rewriting if its tasks are to be carried out successfully.

The bill also fails to make provisions, where appropriate, for studies of disinterred human remains and funerary objects, Native or otherwise, where the studies can be carried out in a respectful way, and where they might well benefit descendants of the dead. I think the way the Utkiagvik Project handled the "frozen family" research in Barrow could serve as a good model on which to build. In this case the archaeologists worked closely with Public Safety, local leaders, and the elders to develop an acceptable plan for excavation, study, and reburial. The result was not only respectful treatment of the human remains, but also important information on the history and heritage of the Barrow area, as well as valuable medical and health-related data, all beneficial to Barrow-area people.

I feel strongly that HB 436 would benefit greatly from a much broader range of input from all interested parties--Native people, archaeologists, the Office of History and Archaeology in DNR, Public Safety people and so on. Such an effort could also benefit from consulting documents such as the Advisory Council on Historic Preservation's "Policy Statement Regarding Treatment of Human Remains and Grave Goods" (a copy is attached) and some of the laws already enacted by other states on this matter. By working with the various interested groups to build a consensus, you are much more likely to get legislation that will really work to protect the human remains and funerary objects, and to their respectful treatment, and where appropriate, return to their rightful place, while preventing onerous over-regulation, costly litigation, or worse yet, loss of the remains altogether.

Representative George Jacko  
February 7, 1990

I strongly urge you and the other co-sponsors of HB 436 to take the time to create such a consensus and draft a more workable bill. I appreciate your consideration of my views.

If I can answer any questions or provide any additional input, please do not hesitate to contact me. I can be reached at the following phone numbers: 474-7039 (office), 479-8406 (home), 474-6967 (FAX).

Sincerely,

*Wendy H. Arundale*

Wendy H. Arundale, Ph.D.  
Research Associate, IAB  
Adjunct Faculty, Department of Anthropology

Attachment

# Advisory Council On Historic Preservation

The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #808  
Washington, DC 20004

## POLICY STATEMENT REGARDING TREATMENT OF HUMAN REMAINS AND GRAVE GOODS

Adopted by the Advisory Council on Historic Preservation

September 27, 1988

Gallup, New Mexico

When human remains or grave goods are likely to be exhumed in connection with an undertaking subject to review under Section 106 of the National Historic Preservation Act, the consulting parties under the Council's regulations should agree upon arrangements for their disposition that, to the extent allowed by law, adhere to the following principles:

o Human remains and grave goods should not be disinterred unless required in advance of some kind of disturbance, such as construction;

o Disinterment when necessary should be done carefully, respectfully, and completely, in accordance with proper archeological methods;

o In general, human remains and grave goods should be reburied, in consultation with the descendants of the dead.

o Prior to reburial, scientific studies should be performed as necessary to address justified research topics;

o Scientific studies and reburial should occur according to a definite, agreed-upon schedule; and

o Where scientific study is offensive to the descendants of the dead, and the need for such study does not outweigh the need to respect the concerns of such descendants, reburial should occur without prior study. Conversely, where the scientific research value of human remains or grave goods outweighs any objections that descendants may have to their study, they should not be reburied, but should be retained in perpetuity for study.

INFORMATIONAL BRIEFING  
HIGHWAY S-310  
UNALASKA, ALASKA

FEBRUARY 1990

SUBMITTED BY: ROE STURGULEWSKI  
DIRECTOR OF PUBLIC WORKS  
CITY OF UNALASKA

State Highway S-310, which connects the airport with the City of Unalaska, is in urgent need of upgrade to accommodate the increased traffic generated by the on-shore movement of the bottom fish industry. Since the beginning of 1989, the City has spent over \$500,00 of its General Fund monies to maintain and upgrade this State-owned highway. The highway has a need for about \$300,000 in State funding to provide improvements to bring the road to a standard which will accommodate the increased traffic loads given a reasonable amount of maintenance.

S-310 was originally designated a federal aid highway in 1979 prior to construction of the South Channel Bridge. This construction provided a drivable link between the city of Unalaska and the port of Dutch Harbor. In 1981/82, the State funded construction of a small section of the highway. No further State involvement occurred until the 1989 Legislature passed a resolution acknowledging the highway was part of the federal aid system. Additionally, funding was allocated and the highway placed in the DOT/federal highways paving program. The DOT performed preliminary surveying and engineering in the fall of 1989. DOT estimates paving

construction will occur between 1993 and 1995 and will cost five to six million dollars for this three-plus mile project.

Unalaska, which has become one of the top three volume ports in the nation, is hard pressed to meet the expanding infrastructure needs. The 200-plus million dollar expenditure by private industry in the past two years has fueled a tremendous increase in car and truck traffic. DOT traffic studies indicate up to 7,000 vehicle trips occur per day with a very high percentage being road-damaging construction trucks and seafood product semi-trailers. The heavy traffic, coupled with Unalaska's inclement weather, on a road system that cannot handle a quarter of the existing traffic, has created a requirement for constant maintenance (about \$150,000 to \$200,000 per year).

In order to accommodate the commerce, reduce the high accident rate and decrease the excessive annual maintenance costs, the Public Works Department has allocated a significant portion of its roadway budget to upgrade S-310. Recent improvements include a major rerouting at Agnes Beach Hill, which had up to ten accidents per week in the winter months, erosion control in areas subject to the forces of the Bering Sea, and the addition of a large amount of sub-base and surfacing material to create a smoother driving surface.

Although the upgrades helped, more are required to handle the traffic until the roads are paved in 1992 or 1993. S-310 is an important highway. It is the main road between the airport and the community. It is also on the route between all major processors and where they transport their product. The Roads Department, however, has an additional 35 miles of road under its control and cannot continue allocating such a high percentage of its budget to this major State highway. The Department estimates approximately \$300,000 in improvements are needed to bring the road to a level which will require a reasonable amount of maintenance. The improvements include about 15,000 cubic yards of surfacing, sub-base and erosion control material; 4,000 cubic yards of rock and sliderock excavation and installation of about 1,000 feet of culverting material.

The City of Unalaska has carried the burden of maintaining State Highway S-310 for a number of years. State assistance, in the amount of \$300,000, will allow equitable upgrades to be performed prior to paving being accomplished in the early part of the decade.