

HB 296

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 8, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-18-91

The FINANCE Committee considered:

HB 296

HOUSE BILL NO. 296

PROTECTION OF NATIVE HUMAN REMAINS

"An Act relating to human remains and funerary objects."

RECOMMENDATIONS:

be replaced with CS HB 296 (dup) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note Dnr

zero fiscal note(s) _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|------------------------------|----|-----------------------|-----|----|----|
| <i>[Signature]</i> | X | | | | |
| <i>Arnold J. [Signature]</i> | X | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>[Signature]</i> | X | | | | |
| <i>[Signature]</i> | X | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>[Signature]</i> | X | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>[Signature]</i> | ✓ | | | | |

[Signature]
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. i

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Version: CSHB 296(JUD)

(H) Publish Date: 5/8/91

Revision Date: _____ Department Affected: Public Safety
 Title: "An Act relating to human remains and funerary objects" BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Davidson
 Requestor: House Judiciary

COMPONENT SERIAL NO.

| | | | |
|--|---|---|---|
| | 7 | 9 | 9 |
|--|---|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

| OPERATING | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER/PROG RCPT | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact upon the Division of Alaska State Troopers is anticipated.

Prepared by: Gayle A. Horetski Phone: 465-4322
 Division: Office of the Commissioner Date: 5/6/91
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton
 Agency: Department of Public Safety Date: 5/6/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 296 (JUD)

Revision Date: May 18, 1991 Department Affected: Department of Natural Resources
Title: An Act Relating to Human Remains and Funerary Objects BRU: _____
Component: _____

Sponsor: Representative Davidson
Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair *Mike Navarre* 465-3706
Representative Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722
Division: _____ Date: May 18, 1991

Approved by Commissioner: _____
Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 296 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/8/91
Referred: Finance

Sponsor(s): REPRESENTATIVES DAVIDSON, Lincoln, Grussendorf, Gruenberg, MacLean, Koponen, Ivan,
Gonzales, G.Phillips, Parnell, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to human remains and funerary objects."

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

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

4 ARTICLE 2. HUMAN REMAINS.

5 Sec. 12.65.150. REPORTS OF HUMAN REMAINS. (a) Except as provided in (b) of
6 this section, a person who encounters human remains in or on land or water in the state shall

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

8 and

9 (2) report the presence and location of the remains to the nearest law enforcement
10 agency as soon as possible considering the location of the discovery and the availability of
11 communication alternatives.

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

14 (c) If the law enforcement agency determines that remains reported to it under (a) of this

1 Sec. 41.35.080. PERMITS. The commissioner may issue a permit for the investigation,
2 excavation, gathering, or removal from the natural state [,] of any historic, prehistoric, or
3 archeological resources of the state or human remains or funerary objects reported under
4 AS 12.65.150 or AS 41.35.410. A permit may be issued only to persons or organizations
5 qualified to make the investigations, excavations, gatherings, or removals and, except as
6 otherwise provided in the permit issued under of this section, only if the results of these
7 authorized activities will be made available to the general public through institutions and
8 museums interested in disseminating knowledge on the subjects involved. If the historic,
9 prehistoric, or archeological resource involved is one that [WHICH] is, or is located on a site
10 that [WHICH] is, sacred, holy, or of religious significance to a cultural group, the consent of that
11 cultural group must be obtained before a permit may be issued under this section.

12 * Sec. 6. AS 41.35.090 is amended to read:

13 Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any
14 construction, alteration, or improvement of any nature is undertaken on a privately owned,
15 officially designated state monument or historic site by any person, the person shall give the
16 department three months' [MONTHS] notice of intention to construct on, alter, or improve it.
17 If the construction, alteration, or improvement involves known reasonably identifiable
18 human remains or funerary objects, the person shall also give three months' notice of
19 intention to construct, alter, or improve to the descendants or tribe of the decedent whose
20 remains are involved. Before the expiration of the three-month notification period, the
21 department shall either begin eminent domain proceedings under AS 41.35.060(b) or undertake
22 or permit the recording and salvaging of any historic, prehistoric, or archeological information
23 considered necessary.

24 * Sec. 7. AS 41.35.230 is amended to read:

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

27 (1) [REPEALED

28 (2)] "committee" means the Historic Sites Advisory Committee;

29 (2) "funerary objects" means items for which there is direct circumstantial
30 evidence, expert opinion, or documentation that the items were directly associated with
31 human remains or were intentionally placed with human remains either at the time of

1 probably not funerary objects, the department shall comply with (c) of this section.

2 (c) If human remains or funerary objects described in (a) and (b) of this section are not
3 disinterred, the department shall leave them in the place where they are interred, when possible.
4 If the human remains or funerary objects are disinterred and the decedent's living descendants
5 are reasonably identifiable, the department shall, by certified mail return receipt requested, notify
6 the decedent's relative with the closest kinship ties that the remains and funerary objects are
7 available for disposition. If the remains and funerary objects include Native human remains or
8 funerary objects and the department is unable to ascertain the existence and address of living
9 descendants of the descendant, the department shall determine with as much specificity as
10 possible their tribe of origin and notify the governing body of the tribe of their discovery and
11 location. If a specific tribe of origin is not reasonably identifiable, the department shall, by
12 certified mail return receipt requested, give the notice of the discovery and its location to the
13 governing body of the tribe whose members predominate in the vicinity of the discovery.

14 (d) At the request of a descendant or the governing body of a tribe notified under (c) of
15 this section, the department shall provide for access to the remains or funerary objects so that the
16 descendant or the tribe may dispose of them. A tribe may not be allowed to have access until
17 the tribe's plan for disposition of the remains or objects has been submitted to the department.
18 If, within 120 days after notification by the department by certified mail return receipt requested,
19 neither a descendant nor a tribe seeks the right to dispose of the remains or funerary objects, the
20 department shall treat them in the same manner as it treats other unclaimed human remains or
21 historic, prehistoric, and archeological resources under this chapter, as applicable.

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

25 Sec. 41.35.420. DISPUTE RESOLUTION COMMITTEE. When needed, the governor
26 shall establish a committee to advise the department concerning conflicting claims of tribes and
27 descendants with respect to disposition rights for human remains and funerary objects. A
28 committee consists of the state liaison officer appointed under 16 U.S.C. 470 - 470n (National
29 Historic Preservation Act) and the following persons, who shall be appointed by the governor as
30 the need arises:

31 (1) an archeologist with osteological expertise or a physical anthropologist; and

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 296

Revision Date: _____ Department Affected: Natural Resources
 Title: An Act Relating to Human BRU: Parks & Outdoor Recreation
Remains and Funerary Objects Components: Historic Resource Management
 Sponsor: Representative Davidson
 Requestor: House Judiciary COMPONENT SERIAL NO. 451

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 55.9 | 57.2 | 58.5 | 59.8 | 61.1 | 62.4 |
| TRAVEL | 24.3 | 26.3 | 28.3 | 30.3 | 32.3 | 34.3 |
| CONTRACTUAL | 22.7 | 23.7 | 24.7 | 25.7 | 26.7 | 27.7 |
| SUPPLIES | 1.2 | 1.3 | 1.4 | 1.5 | 1.6 | 1.7 |
| EQUIPMENT | 8.7 | | | | | |
| LAND&STRUCTURES | | | | | | |
| GRANTS,CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 112.8 | 108.5 | 112.9 | 117.3 | 121.7 | 126.1 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | 112.8 | 108.5 | 112.9 | 117.3 | 121.7 | 126.1 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 112.8 | 108.5 | 112.9 | 117.3 | 121.7 | 126.1 |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Provision should be made in this bill to allow the department to recover the costs of activities required by this bill from the person(s) responsible for disinterring human remains and funerary objects. The public should not be required to shoulder the entire burden of costs.

Prepared by: Bob Shaw/Judy Bittner Phone: 762-2622
 Division: Parks and Outdoor Recreation Date: 13-May-91

Approved by Commissioner: B HAZ Harold Heinze Date: 13-May-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
& Impacted Agency(ies).

FISCAL NOTE ANALYSIS HB-296

Assumptions: This bill will significantly increase identification and reporting of human burials annually. Ethnic and individual identity will be difficult to establish. DNR will not routinely fund investigations of burials on non-state lands.

Program Summary: An Archaeologist II (new position) will implement the bill provisions. Specific duties will include: drafting regulations changes specific to HB-296 requirements; archaeological field examination and excavation of disturbed burials; analysis of human remains and funerary objects; determination of ethnic affiliation; historic research to determine individual person identity for historic period remains; forensic anthropology consultation with State crime lab personnel; training on human bone identification to Alaska State troopers; consultation with tribal units on ethnic identification of burials and curation/reburial issues; participation in a technical committee appointed by the Governor to mediate burial claims disputes; timely notification of tribes of burials in which they may have interests and processing of tribal claims for burial remains; record keeping and management of state administered human remains collections.

In addition to one new staff, physical anthropologists with specialized topical or regional expertise will be routinely required (Annual need 20 days at \$400/day = 8.0 contractual) to supply expert opinion on ethnic affiliation. These experts may be appointed to the gubernatorial committee to adjudicate claims disputes and occasionally to make field inspections. Burials are routinely encountered in remote areas as well as rural villages, requiring travel to inspect the remains in their disturbed context. Since burials often are in archaeological deposits, care must be taken in the field to recover associated funerary objects as specified by the bill. The remote locations and sometimes volatile emotional nature of burial issues will make two person investigation teams necessary.

Economic Impact: No income production is anticipated from this bill.

Impact on Local Government: Distribution of burials is statewide and impacts on local governments will be dependent on the number of development projects they undertake. Specific impacts are not precisely predictable, but will be ameliorated by good project planning in advance of construction start-up. There will also be impacts to persons developing their private lands since they may also occasionally encounter burials.

HB 296 Native Burial Bill -- Fiscal Note Backup

PERSONNEL SERVICES

Archaeologist II (Range 18A = \$4658/mo w/ benefits) 55.9

TRAVEL

Staff Commercial air for 10 incidents
(Archaeo + assistant) \$400per ticket (20 tickets) 8.0
For committee (3 people w/air r/t \$400ea -- 3 incidents) 3.6
For consultant physical anthropologist - 3 trips \$400ea 1.2
Per diem for all above 115 days at \$100/day 11.5

CONTRACTUAL

Physical Anthropologist (\$400/day for 20 days) 8.0
Air charter 2.5
Radio repeater service (Trident) .3
Film processing .4
Postage .4
Misc. xerox, phone .4
Archaeological field assistant (1.1 months Archaeologist I
Range 16D = \$4294/mo w/ benefits) 4.7
Frontier office space rental at \$3.06/sq. ft/month
Staff office 64 sq. ft + 100 sq. ft storage and analysis 6.0

SUPPLIES

Packing for human and funerary objects .6
Office supplies .4
Film .2

EQUIPMENT

Computer 1.8
Office (desk, file cabinet, chair, bookcase, table, partitions,
computer table) 2.3
Forensic instruments and measuring devices 2.6
Locking storage cabinet .8
Emergency radio .6
Camera w/ macrolens .6

112.8

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: Representative Mike Navarre, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

FROM: Representative Cliff Davidson

DATE: May 17, 1991

SUBJECT: House Bill 296, Repatriation of Human Remains

Thank you for taking the time to hear House Bill 296. I disagree with the fiscal note the Department of Natural Resources has attached to the legislation and would like to explain why.

Alaska Statute 41.35, the Alaska Historical Preservation Act, directs the Historical Resource Management Office (HRMO) within the Department of Natural Resources (DNR) to protect and interpret Alaska's heritage resources. HRMO fulfills this mandate in many ways such as reviewing state development projects, issuing permits and leases and assists with land management plans and other undertakings for potential impacts to important, non-renewable heritage sites. Additionally, the department conducts historical and archaeological surveys, cultural resources evaluations and mitigation excavations. New or updated information on sites is added to the Alaska Heritage Resources Survey.

House Bill 296 requires HRMO to go one step further when they are notified of unmarked historical burial sites. That extra step, after identifying the historical significance, is to contact "reasonably identifiable" next of kin or the closest tribal group to the burial site and allow them the opportunity to repatriate the remains and affiliated burial items, if they so wish.

Page 2
House Finance Committee
House Bill 296

The department feels they need additional funding to support this effort. The HRMO currently has three Archaeologists I, three Archaeologists II and one Archaeologist III on staff. Archaeologists are well versed in the study of historical properties. It is my belief that these employees should and would be able to ascertain within a reasonable doubt the lineage of the remains. I believe once this division is notified of a potential historical gravesite, one of their main objectives is to decipher the who, what, when and where in order to update state records. To go the extra mile and contact the nearest tribal group or potential next of kin should not add a new burden to the existing process.

Therefore, I respectfully suggest the House Finance Committee pass House Bill 296 with a zero fiscal note with the intent that the department return next year with information regarding the number of hours spent by staff following the mandate of this legislation.

Thank you for your time and consideration of this request.

**Kodiak
Area
Native
Association**



402 Center Avenue
Kodiak, Alaska 99615
Phone (907) 486-5725

Representative Cliff Davidson
State of Alaska House of Representatives
Box V, Juneau, AK 99811

May 6, 1990

Dear Cliff,

I would like to express my wholehearted support for House Bill 296, as professional archaeologist, and on behalf of the Kodiak Area Native Association. The bill offers long overdue protection for human remains in Alaska, and recognition of the rights and dignity of Native Alaskans. I am particularly pleased with Section 6, which will be one of the few protections available for archaeological sites on private land.

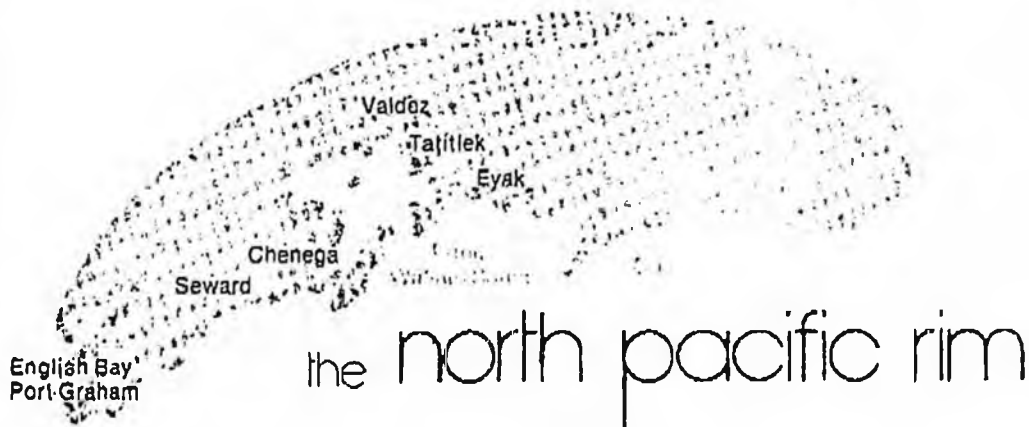
On page 2, line 5 and 6, you might consider legitimately obtained skeletons purchased by physicians and others, which are generally imported from India and other places. Perhaps it would be best to address the bill specifically to human remains from the state of Alaska.

Also, it may be wise to make the proposed dispute committee, described in page 5, lines 27-31, and on page 6, and odd number to avoid split decisions. I would urge you to retain the full representation of the Native community, and consider dropping the area resident.

On the whole the bill is clear, solidly written, and does what it is supposed to. Please accept my thanks, and that of the Native community for introducing this fine piece of legislation. It is fully consistent with your excellent record for supporting and protecting the cultural heritage of Native people.

Sincerely,
KODIAK AREA NATIVE ASSOCIATION
Kelly Simeonoff, President

Rick Knecht
Culture and Heritage
Program Administrator



May 6, 1991

Representative Cliff Davidson
 Chairman
 House Resources Committee
 State of Alaska
 House of Representatives
 Box V
 Juneau, Alaska 99811

Dear Representative Davidson:

The North Pacific Rim, the Alaska Native regional tribal organization serving the people of the Prince William Sound and lower Kenai Peninsula, is pleased to see the progress of House Bill 296, "An Act relating to human remains and funerary objects." This Act will close a loophole in current state law and provide some much needed protection for Alaska Native burial sites.

We would like to emphasize that we do not view this legislation as being "anti archaeology" or "anti science" in any way. We would like to point out that The North Pacific Rim is incorporating an archaeology component into a youth Spirit Camp project this summer. We view HB 296 as a vehicle for showing respect for the Native cultures of our state and recognizing the right of Native people to protect the graves of their ancestors.

Thank you and the other sponsors for the time and effort you have put into this important piece of legislation.

Sincerely,

Handwritten signature of Richard A. Rolland.

Richard A. Rolland
 Executive Director

Alaska Federation of Natives, Inc.

May 3, 1991

Mr. Cliff Davidson, Chairman
House Resources Committee
House of Representatives
Box V
Juneau, Alaska 99811

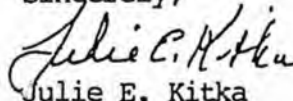
Dear Mr. Davidson:

The Alaska Federation of Natives has followed, with great interest, the repatriation/unmarked burial site hearings of the last one and one-half years. I am pleased to see that progress on the issue has resulted in House Bill 296 now being before the House Judiciary Committee. The Federation supports HB 296 as currently drafted.

As you are well aware, Native burial site disturbances and the removal of remains and funerary objects is an extremely sensitive issue. Time and time again events in Alaska have shown that respect for ancestral remains and Native culture has been readily sacrificed for science and/or personal gain.

The Federation supports HB 296 as presented to the House Judiciary Committee and thanks its sponsors for their efforts in this matter.

Sincerely,



Julie E. Kitka
President

RECEIVED

APR 9 1991

N.A.R.F.
WASHINGTON

SMITHSONIAN INSTITUTION

Washington, D.C. 20560
U.S.A.

April 8, 1991

Mr. Henry J. Sockbeson
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976

Dear Mr. Sockbeson:

As we have already discussed by telephone, I am pleased to tell you that the Smithsonian Institution has finally completed its consideration of the request of the Larsen Bay Tribal Council for the repatriation of certain materials. The materials in question are, as you know, human remains and associated funerary objects from a site at Uyak Bay, Alaska, that was excavated by Ales Hrdlicka between the years 1931 and 1938. Our decision has not been an easy or uncontested one, and as you also know it follows from an exhaustive review involving a number of outside specialists. Now with the full concurrence of the Director of the National Museum of Natural History, however, I have concluded that the balance of some fairly complex considerations supports a return of these materials to the Council.

You have expressed the belief, with which I can sympathize, that this case has taken an excessive length of time to resolve. Frankly, an awareness of the negative effect this delay is having on our desire to maintain cordial relations with many Native American communities has played a part in the decision to conclude our deliberations on the Larsen Bay claim without convening the Review Panel that has been established for this purpose. A major problem for us has been the difficulty in recruiting the supplementary staff needed to expedite our own internal research on claims. That problem is slowly being overcome, but we must recognize that substantial recruitment delays will always be inherent in Federal hiring processes.

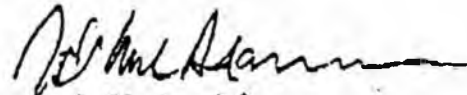
But there have been other, more substantive reasons as well for the length of time that has been devoted to this case. The scientific evidence, while voluminous, does not lend what any fair-minded person would regard as absolutely conclusive support to any position on the repatriation issue. Without going into details, the record of the original excavations at the site presents many ambiguities, making it very difficult to decide on

the likelihood of possible breaks in the occupation there, or on the possibility that older population elements may have been substantially or wholly replaced by new ones during the course of that occupation. Particularly for this reason, I have also felt it was necessary to weigh the evidence for general continuity of Native American occupation in the immediately surrounding region, from the aboriginal period until the present. Once again, no conclusion on this matter can be as clear-cut as one would like. But I think the sum of the evidence (if not all of its details) supports the judgment I am reporting to you herewith.

Issues like those mentioned above had not been anticipated in detail, I should point out, in the legislation mandating our review. Partly because they are so new, we have felt the need to think about them very deliberately. At the same time, now looking to the future, this experience leaves me with a growing sense of the particularity of each of the repatriation claims that are likely to be addressed to the Smithsonian. One would hope that each case would help us to develop broad principles, presently enabling us to handle subsequent cases with less uncertainty and delay. But I am no longer so confident that this hope will be easily realized.

Please be in touch with Dr. Frank Talbot, Director of the National Museum of Natural History, in order to discuss arrangements for the return of these remains. I do hope you understand that all of us at the Smithsonian, while obviously conscious of the scientific loss that we believe this repatriation represents, view the act of repatriation itself with the deepest sympathy and respect. It is our earnest hope that you, your colleagues and constituents will recognize in our action an expression of good will and good intentions that will lead to an improvement of our relations in the future.

Sincerely yours,



Robert McC. Adams
Secretary