



SOCIETY FOR AMERICAN ARCHAEOLOGY

**Statement of the Society for American Archaeology
For the record of the hearing on the implementation
Of the American Indian Religious Freedom Act
Senate Committee on Indian Affairs
July 14, 2004**

The Society for American Archaeology (SAA) would like to take this opportunity to submit the following information for the record of the hearing held July 14, 2004 in the Senate Indian Affairs Committee.

SAA is an international organization that, since its founding in 1934, has been dedicated to the research, interpretation, and protection of the archaeological heritage of the Americas. With more than 6,900 members, the Society represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

The purpose of the hearing was to review the implementation of the American Indian Religious Freedom Act (AIRFA). SAA submitted separate written testimony for the hearing. During the hearing, two witnesses presented testimony that also dealt with certain issues involving the Native American Graves Protection and Repatriation Act (NAGPRA). One witness – Mr. Walter Echo-Hawk of the Native American Rights Fund – included in his written testimony a resolution (#MOH 04-002) adopted by the National Congress of American Indians that makes several assertions about SAA, the National Park Service (NPS), and the implementation of NAGPRA. Mr. Echo-Hawk further expounded on these assertions during his oral presentation and the question session following the oral testimony. SAA believes that it must respond to these assertions, as it was not able to do so during the actual hearing.

The crux of the issue raised by Mr. Echo-Hawk is that the NPS is implementing NAGPRA in an unfair manner due to a conflict of interest. Before we respond to this allegation, it must be pointed out that NAGPRA is compromise legislation seeking to balance the concerns of Native Americans, scholars, museums, and the general public. As Senator McCain said in his remarks on October 26, 1990, during Senate consideration of the NAGPRA bill, *“For several years, the Congress has considered the difficult issue of the repatriation of Native American human remains and funerary objects from museum collections to Indian tribes. Our committee has heard hours of testimony from persons representing Indian tribes, Native Hawaiian organizations, the American Association of Museums, the Society of American Archaeology, and*

a variety of other interested groups. The Select Committee on Indian Affairs, under the leadership of my good friend from Hawaii, Senator Inouye, has been very active in efforts to bring both sides closer to agreement on these very difficult issues. For 2 years, representatives of the museum community, including archaeologists and anthropologists, met with tribal representatives to discuss the repatriation of human remains and other objects of cultural and religious significance from museum collections. H.R. 5237, reflects the thoughtful deliberations of these discussions. I believe this legislation effectively balances the interest of Native Americans in the rightful and respectful return of their ancestors with the interest of our Nation's museums in maintaining our rich cultural heritage, the heritage of all American peoples. Above all, I believe this legislation establishes a process that provides the dignity and respect that our Nation's first citizens deserve."

Mr. Echo-Hawk himself should be aware of this fact. Attached is a letter of support for the NAGPRA bill, signed by all the major groups involved in the formulation of the law, including Mr. Echo Hawk and the Native American Rights Fund. The letter clearly states that NAGPRA is "a carefully constructed compromise" that earned the support of "Indian, museum, scientific and historic preservation communities."

Specifically, in the July 14 hearing Mr. Echo-Hawk alleged that the staff members of the National NAGPRA office in the NPS are "to a person" members of SAA. This is incorrect. There are eight program staff members in the National NAGPRA office – three are members of SAA, and those three do NOT include the director of the National NAGPRA program or the individual who was recently named Designated Federal Officer to the National NAGPRA Review Committee. Mr. Echo-Hawk seems to be inferring that a government employee's membership in a professional organization is itself evidence of bias. We respectfully disagree with this point of view. The employees of the National NAGPRA office are tasked with administering a very important program that by its very nature concerns Native American spiritual and cultural heritage, archaeology, museum activity, collections preservation and management, and other topics. It is important for them and for all government employees with regulatory and decision-making responsibilities to be knowledgeable about the issues and activities that fall under their purview. Professional organizations are an important tool for learning and keeping abreast of developments in such areas. The public as a whole benefits from a knowledgeable regulatory body.

More broadly, Mr. Echo-Hawk implies that the very presence of archaeologists on the National NAGPRA staff is evidence of bias against the interests of Native Americans. Given the balance and compromise that NAGPRA represents, archaeologists and museum professionals as well as other affected groups should be represented within the make up of the National NAGPRA office staff.

Mr. Echo-Hawk also asserted that Native Americans could not get an "impartial disposition" of Culturally Unidentifiable Human Remains because of the NPS' conflict of interest in "upholding the archaeological resource protection statutes, which promote science." For many years the federal government has recognized the need to preserve and protect the nation's archaeological resources for all Americans. The Antiquities Act, the National Historic Preservation Act and the Archaeological Resources Protection Act (ARPA) mandate the protection of archaeological resources. This work is not done purely for the promotion of science, but for the preservation of the past for all present and

future Americans, and the education of the public on the importance of such activities. The Department of Interior and the National Park Service are the lead department and agency in this effort, and some of the work is carried out by the Archaeology and Ethnography Program at the NPS. This office, however, has no jurisdiction over, or any connection with, NAGPRA and the formulation of the policies derived from that law.

SAA is made up of individuals who have in many cases devoted their lives to the preservation of the past, and the Society works hard to protect the nation's cultural heritage. Recently, SAA made a strong contribution in the struggle against looting, which is a very serious problem for Native American cultural resources. SAA formulated a set of archaeological resource value standards for use in cases involving violations of ARPA. Establishing value is a critical requirement in determining penalties for those found guilty of looting sites or trafficking in illicit cultural resources. In addition, SAA worked with the U.S. Sentencing Commission in developing stricter sentencing guidelines for criminal violations of ARPA and NAGPRA.

SAA was one of the leading organizations behind the formulation and successful enactment of NAGPRA, and strongly supports the statute. Now as then, we offer our assistance to the Committee and the Native American community in addressing issues affecting the heritage of all Americans.

November 2, 1990

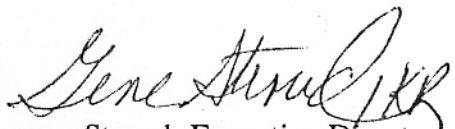
President George Bush
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Bush:

The Native American Grave Protection and Repatriation Act is a vital piece of legislation that is the product of a carefully constructed compromise which has earned the support of the Indian, museum, scientific and historic preservation communities.

We believe that the bill will create a workable framework fostering sensitivity and cooperation in achieving the appropriate repatriation of Native American human remains and cultural objects. As representatives of these diverse organizations, we strongly urge you to sign H.R. 5237.

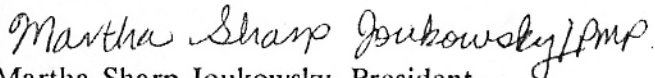
Sincerely,



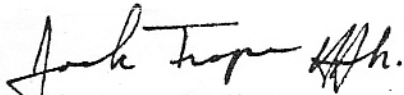
Eugene Sterud, Executive Director
American Anthropological Association



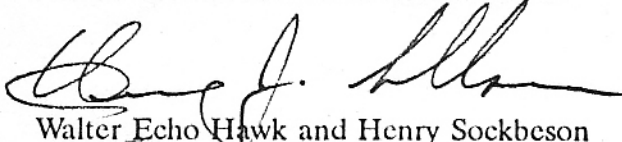
William Stini, President
American Association of Physical Anthropologists



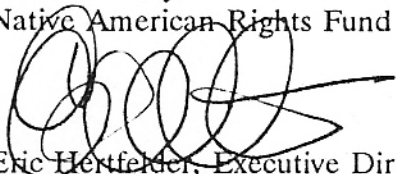
Martha Sharp Joukowsky, President
Archaeological Institute of America



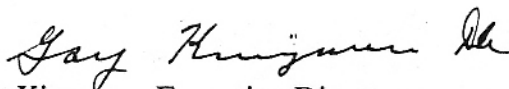
Jack Trope, Staff Attorney
Association on American Indian Affairs



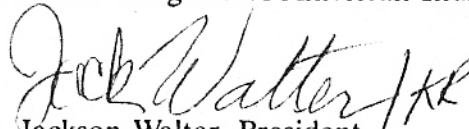
Walter Echo Hawk and Henry Sockbeson
Staff Attorneys
Native American Rights Fund



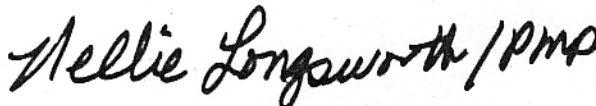
Eric Hertfelder, Executive Director
National Conference of State Historic
Preservation Officers



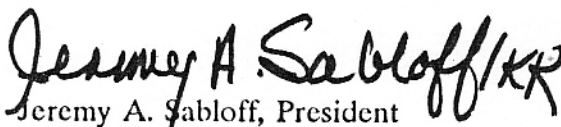
Gay Kingman, Executive Director
National Congress of American Indians



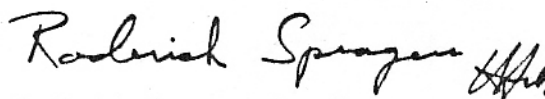
J. Jackson Walter, President
National Trust for Historic Preservation



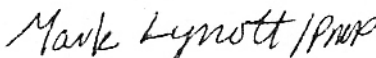
Nellie Longworth, President
Preservation Action



Jeremy A. Sabloff, President
Society for American Archaeology



Roderick Sprague, President
Society for Historical Archaeology



Mark Lynott, President
Society of Professional Archaeologists