



## SOCIETY FOR AMERICAN ARCHAEOLOGY

10 February 1998

The Honorable Don Young, Chairman  
House Resources Committee  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Young:

The Society for American Archaeology (SAA) wishes to take this opportunity to comment on a bill that was recently introduced by Rep. Doc Hastings and that falls within the jurisdiction of your committee. This bill is H.R. 2893--proposed amendments to the Native American Graves Protection and Repatriation Act (NAGPRA). With over 6100 lay and professional members, SAA is the largest organization devoted to the study of the archaeology of the Americas. SAA supports Native American, Native Alaskan, and Native Hawaiian rights with respect to affiliated ancestral human remains and cultural items, and worked closely with Native American groups and members of Congress to obtain passage of the current version of NAGPRA.

H.R. 2893 was stimulated by the controversy over the disposition of the Kennewick skeleton discovered in Rep. Hastings's district. The U.S. Army Corps of Engineers' decision that these remains were culturally affiliated with the Umatilla tribe, and its decision to repatriate the remains without scientific study, not only led to a lawsuit by a number of prominent scientists, but also apparently to a relatively widespread public concern that NAGPRA may have gone too far in compromising the broad public interest in the nation's prehistoric heritage. As a response to this controversy, H.R. 2893 would achieve three major objectives:

*1. To enhance scientific recording and study of cultural items.*

It would require that newly excavated cultural items (human remains, funerary objects, sacred objects, and objects of cultural patrimony) on federal lands be recorded according to generally accepted scientific standards and that federal agencies retain control over those items for 90 days after the publication of a notice of their discovery in the *Federal Register*. In addition, study of culturally unaffiliated remains and items is permitted (but not required) to determine cultural affiliation or to obtain information of scientific, historical, or cultural value. Culturally affiliated remains and items may be studied only if the study is "reasonably expected to provide significant new information concerning the prehistory or history of the United States," and only so long as such study does not delay repatriation of items claimed by a culturally affiliated tribe or Native Hawaiian organization for more than 180 days.

In this context it is important to recognize that H.R. 2893 neither diminishes the ability of culturally affiliated tribes or Native Hawaiian organizations to achieve repatriation nor alters NAGPRA's definition of cultural affiliation. No study would be allowed if the remains or items are claimed by lineal descendants, if the study would violate a museum's policies or prior agreements, or if the scientific benefits of the study are shown to be clearly outweighed by curatorial, cultural, or other reasonable concerns. Newly excavated or discovered items from tribal lands also would be exempt from study, unless permitted by the tribe. Control of lineal descendants of the remains and items of their ancestors, and the control of Indian tribes over remains and items recently excavated on their lands, is slightly enhanced by the amendment because those remains or items would no longer be subject to NAGPRA's current provisions for scientific study.

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*2. To eliminate the provision of NAGPRA that provides for repatriation of recently excavated cultural items based on recent land use and in the absence of cultural affiliation.*

Under the proposed change--removing Section 3(a)(2)(C)--these cultural items still would be subject to repatriation under regulations to be promulgated by the Secretary of the Interior, just like other unaffiliated items.

*3. To clarify the disposition of inadvertently discovered cultural items.*

The disposition of "inadvertent discoveries" of cultural items by federal agencies is not being consistently governed by NAGPRA's provisions for intentional excavations. This apparently uncontroversial clarification of congressional intent was originally suggested in a bill, H.R. 749, introduced by Rep. Neil Abercrombie. This section of the amendment appears to be in the interests of both the scientific and Native American communities and is in complete conformance with NAGPRA's original intent.

Undoubtedly, H.R. 2893 will stimulate debate because it seeks a new balance between the legitimate Native American concerns in human remains and other cultural items and legitimate scientific and public interests in those remains and items. It will bring new and important information about the prehistory and history of the United States, but will sometimes delay repatriation or offend native groups opposed to scientific recording or study.

SAA asks that you consider supporting the legislation and as chairman of the House Resources Committee convene a hearing to take testimony from the scientific community, federal agencies, and Native American, Native Alaskan and Native Hawaiian groups. SAA thanks you for your attention and would be pleased to consult with you and your staff.

Sincerely,



Vin Steponaitis, Ph. D.  
President

cc: Rep. George Miller, Ranking Member