

June 17, 2005

Senator John McCain, Chairman  
Senate Committee on Indian Affairs  
United States Senate  
86 Hart Office Building  
Washington, DC 20510  
FAX: (202) 224-5429  
Re: Mc Cain Amendment to NAGPRA

This letter is to register our opposition to your proposal to amend Section 2(9) of the Native American Graves Protection and Repatriation Act (NAGPRA). As we understand it, the purpose of the amendment is to broaden the meaning of the term "Native American" so that NAGPRA will cover all prehistoric human remains and cultural items found in this country, regardless of their antiquity and even if they lack any verifiable connection to present-day Native Americans. We believe that there is no scientific justification for such a measure.

We are anthropologists who have spent our professional careers studying human physical and cultural evolution. Together, we have devoted more than 30 years apiece to research and teaching. We have written or co-authored more than 20 books and more than 600 articles and papers. We have studied remains, objects and sites in the United States and throughout the world.

Nowhere in the world can it be said with any degree of confidence that human skeletons of any significant antiquity are the direct and unmodified ancestors of the people living today in the localities where the skeletons happen to be found. This is not an unsupported opinion. Among other things, we have accumulated a database of craniofacial measurements taken on human skeletal material ranging in age from well over 9,000 years ago to modern times, and truly worldwide in scope. The measurements were made on collections housed in North and South America, China, Japan, Thailand, Indonesia, Australia, South Asia, Western Europe, Central Europe, the Mediterranean (both Northern and Southern edges), Israel, Egypt, and East Africa. This collection contains measurements made according to a standard protocol. For each of these regions we have sets of two dozen craniofacial measurements on representative samples of the individuals involved which we have used for statistical comparisons of the representative groups. It is the largest such database in the world.

NAGPRA cannot be safely applied to skeletons that are thousands of years old. How such skeletons are related to modern Native Americans, if they are related at all, is difficult to determine. One example is the 9,000 year old skeleton known as Kennewick

Man. Although we have not been allowed to make our measurement set on the Kennewick individual, a visual appraisal of his craniofacial form causes us to doubt that he is ancestral to the people who are now claiming descent from him. The offhanded comment that “humans and animals change over time to adapt to their environment” has been made to account for the evident difference in appearance between the Kennewick individual and the Native American people living in that area at present. From an analysis of the material in our database, we can say that no human group anywhere else in the world over a 9,000-year time span has undergone a degree of *in situ* change comparable to the difference between Kennewick and the tribes that now claim him as ancestral.

From an assessment of the photographs of the Kennewick find, one of the undersigned (Brace) was the first scholar to suggest that the skeleton exhibits more morphological similarity to the prehistoric J\_mon of Japan, the ancestors of the Ainu, than he does toward those American Indians who are claiming him as an ancestor. The same suggestion occurred in assessing the form of some Kennewick contemporaries found at Lagoa Santa in east central Brazil just before the mid-point of the 19<sup>th</sup> century. Two years ago we were allowed access to the Lagoa Santa material, made our measurements, and have since done the kind of statistical analysis we would like to do on Kennewick Man. The results were unequivocal. Lagoa Santa indeed ties closely to J\_mon Japan. It is not unrealistic to suspect that the prehistoric inhabitants of the northeastern edge of East Asia contributed to one of the early waves of human entrants into the Western Hemisphere.

The chances are remote that individuals who lived in North America as long ago as Kennewick Man have any living descendants today. Most human lineages do not succeed in reproducing themselves over a span of even 500 or 1000 years, and even fewer survive after 9000 years. Because of the contingencies of human survival, modern humans are the descendants of a relatively small fraction of the people who lived in Kennewick Man’s era. Human survival in prehistoric times was a problematic proposition. Even entire bands were at risk of sudden or gradual elimination due to competition from other groups, warfare, disease, droughts, famine and other circumstances. Furthermore, even if an ancient individual or his or her band does have modern living descendants, it cannot be assumed that they are living in the same area where the ancient person’s skeleton is found. Hunter-gatherers of 9,000 years ago appear to have been highly mobile peoples, and over time their descendants could have ended up living many thousands of miles from where their ancestors lived and died. The historic and prehistoric record contains many examples of tribal migrations not related to European expansion that involved movements over considerable distances within only one or two generations. By comparison, more than 400 generations have passed since someone as old as Kennewick Man died.

The Lagoa Santa skeletons provide a good example of why it is fallacious to assume that the modern inhabitants of a region are necessarily the direct descendants of people who lived in the region thousands of years before. The native people of Tierra del Fuego are the modern population that ties closest to these ancient skeletons.

Approximately 3500 miles separate their region from the Lagoa Santa area of Brazil. Whether any ancestral-descendant relationship exists between the two populations has yet to be determined.

Nowhere in the world is the lifeway of people more than 9,000 years ago the same as the lifeway of the people living there today. And nowhere in the world does the treatment of the dead today have any relationship to how people who lived there more than 9,000 years ago conceptualized the great mystery of mortality. To illustrate this point, let us use the people who have inhabited the British Isles. Some 9,000 years ago, the Celts did not yet exist, the Romans had not yet invaded Britannia, the Anglo-Saxons had not emigrated to England from Germany, and the Norman French had not yet crossed the Channel. We would be misguided to claim that an individual who lived there 9,000 years ago had the same views of an afterlife as the people now living in the United Kingdom. The New World is not different. We simply have less historic data, which is all the more reason we need scientific study of early remains and objects..

To treat the remains of people more than 9,000 years old according to the customs of the people living today in the discovery area ignores the huge cultural differences between then and now. The most honor we can give the remains of ancient prehistoric people is to find out who they were most closely related to and what their way of life actually was. The only way this can be done is to subject their tangible remains to scientific study and to investigate archaeologically sites containing information about their living practices. To bury such material in an unknown place at the behest of a group to whom they have no demonstrated biological or cultural connection is actually a form of cultural imperialism. Future generations will not thank us for allowing the destruction of key evidence for understanding America's past. We urge the Committee to take a more long-range view of the issues raised by the McCain Amendment. To erect hasty and ill-conceived barriers to scientific investigation of prehistory, as this bill would do, is not in the public interest.

Sincerely,

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