



PEABODY MUSEUM *of* ARCHAEOLOGY & ETHNOLOGY

WILLIAM L. FASH

William and Muriel Seabury Howells Director

Charles P. Bowditch Professor of Central American and Mexican Archaeology and Ethnology

November 2, 2009

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Secretary:

As Director of the Peabody Museum of Archaeology and Ethnology at Harvard University, I am writing to commend you for your leadership of the Department of the Interior in the short time you have served and to share with you some of the highlights of our partnership with the Department of Interior, the National Park Service and tribal communities across the country in working toward the goals of the Native American Graves Protection and Repatriation Act (NAGPRA).

It was nearly twenty years ago that Congress passed this landmark legislation to provide critical protection to Native American sites and require the repatriation of remains, funerary objects, and other tribal and sacred items. Since that time we have worked diligently in partnership with tribal communities to accomplish these goals. While many worried this law would spawn adversarial relationships and never-ending discussions, we have found common ground and forged strong and positive relationships under this law and in other areas, notably education and research, extending our partnerships to broader areas of shared concern.

As one of the oldest museums in the world dedicated to anthropology and with deep ties to leading scientists, historians and researchers across our country's history, it is not surprising that the Peabody has one of largest private collections subject to NAGPRA. While we are proud of our long history and our scholarship, we are proud of our record under NAGPRA. We have consulted with tribal communities in nearly every state and have completed requirements to enable repatriation of approximately 3,137 individuals and over 10,000 funerary objects. The Federal Register notices enabling these repatriations represent approximately 10 percent of the total nationwide. In addition, we have coordinated repatriation of sacred items and objects of cultural patrimony as minute as a bead and as large as a totem pole. This work is ongoing; in FY 2009, the Museum hosted five NAGPRA consultation visits with various groups, repatriated 58 individual human remains, and worked with tribes including the Confederated Tribes of the Colville Reservation in Washington; the Assiniboine and

Sioux Tribes of the Fort Peck Reservation in Montana; the Choctaw Nation of Oklahoma; and the Wampanoag Tribe of Gay Head, Massachusetts just to name a few.

Through these many experiences, we have developed significant relationships with tribal communities both local to Massachusetts and in all corners of the country from Alaska to Florida – and many places in between. The strong ties we have built with these communities have fostered new studies and exhibits here at the Peabody such as *Digging Veritas*, a student and community archaeological partnership exploring Harvard Indian College as the earliest institution committed to education of Native American students; and *Wiyopiyata: contested images of the American West* highlighting a funerary biographical ledger from a Sioux warrior at the Battle of the Little Bighorn, which was co-curated by Lakota artist and educator Butch Thunderhawk. We have also provided technical assistance to many tribal communities as they have developed their own museums and centers of cultural studies and education. Beyond traditional museum issues, new educational programs have also grown out of these strong relationships, especially the Harvard University Native American Program, the Harvard Project on American Indian Economic Development, and curriculum enhancements to teaching property law at Harvard Law School.

We have also developed extensive experience with NAGPRA itself. Over the years, we have been active in the implementation of new tools to assist in meeting the goals of NAGPRA -- for instance, the new online catalogue of unaffiliated remains – and have also provided comments on regulatory proposals from the Department of Interior. In addition, while we have never had a dispute before the NAGPRA Review Committee, we have attended their meetings regularly and have frequently been asked to provide public testimony on the ongoing work of the Peabody in fully complying with NAGPRA. We have also hosted NAGPRA office staff on campus for numerous events and meetings.

More recently, however, we have become concerned that the balance with which the National NAGPRA office has approached NAGPRA implementation in the past seems to be disappearing. We believe this is most obvious in the proposed draft regulations on culturally unidentifiable human remains. As you may know, this issue has been under review for at least 10 years with the most recent proposed regulations published in October 2007. Along with many others, we provided detailed comments on the regulations and strongly objected to the expansive approach adopted. While there was a wide spectrum of views on the regulations, our concern that draft regulations were unworkable was echoed in comments from many, including those from tribal communities. After significant discussion, the NAGPRA Review Committee itself recommended without dissent that the NAGPRA office reconsider their proposal, significantly rework it, and republish the regulations again in draft form to allow for further comment on a modified approach. At this point, it is still unclear what will happen with these regulations.

Beyond the regulations, we have also seen the shift in approach to NAGPRA in the appointments to the NAGPRA Review Committee. From the statute, the purpose of the Review Committee is to bring together the diverse groups around NAGPRA issues, to

find common ground and to offer the Secretary advice based on various viewpoints. Increasingly, the Review Committee is dominated by one point of view. While this makes for far easier consensus, over the long term it does not serve the larger community or the purposes of NAGPRA.

We hope to have to the opportunity to meet with you and the new leadership of the National Park Service at some point in the near future to discuss these issues further. In addition, we would be happy to host you or others from the Department of the Interior at the Peabody, so that we could share with you our work experiences, and perspectives.

Thank you so much for your attention to this matter and your stewardship of so much of our nation's natural and cultural heritage.

Sincerely,

A handwritten signature in cursive script, appearing to read "William Fash".

William Fash

William and Muriel Seabury Howells Director

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