

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BONNICHSEN, et al.,)	Civil No. 96-1481-JE
)	
Plaintiffs,)	MEMORANDUM IN SUPPORT OF
)	SOCIETY FOR AMERICAN ARCHAEOLOGY'S
v.)	MOTION FOR LEAVE TO APPEAR AS
)	<i>AMICUS CURIAE</i>
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

The Society for American Archaeology ("SAA") is the leading professional organization of archaeologists engaged in archaeological and related studies of the Native American archaeological record. SAA is a Section 501(c) (3) non-profit association with more than 6,000 members. For more than a decade SAA has led the scientific community in national discussions about the repatriation of Native American human remains and cultural items. In 1990, SAA was the primary scientific organization involved in the negotiations among Native American organizations, museums, scientific organizations and Congress that resulted in the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq. SAA has provided testimony at U.S. Senate and House of Representatives committee hearings on the bill and helped form a coalition of scientific organizations and Native American groups that, once a compromise had been reached, strongly supported NAGPRA's enactment. Since NAGPRA's passage, SAA has closely monitored its implementation and has consistently provided comment to the NAGPRA Review Committee established by statute, to the Department of the Interior, and to other agencies. SAA has twice testified at oversight hearings of the U.S. Senate Committee on Indian Affairs on the implementation of NAGPRA and, in 1998, testified before the U. S. House Resources Committee on a proposed amendment to NAGPRA. SAA has closely followed this case from the outset and it is clear that its interests and opinions are not adequately represented by either the plaintiffs or the defendant government.

The legislative record clearly shows that NAGPRA was intended to reasonably balance Native American interests in human remains and cultural items with those of the scientific community and the broader public. Over the last 10 years, SAA has been alarmed to see an increasing divergence between the actual practice of NAGPRA implementation by some Federal agencies and museums and what SAA believes to be plainly required by the letter and spirit of the Act. This case provides an important opportunity to clarify a number of key issues in the interpretation of the law.

The Court has broad discretion to appoint amici curiae. See, e.g., *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 19982). As the leading scientific organization of American archaeologists, SAA respectfully submits that it can provide the Court with the considered view of a broad cross-section of the American archaeological community on interpretation of NAGPRA and its application to this case. SAA requests permission to appear and participate in this case as amicus curiae for the purpose of providing this Court with its views, and addressing in particular two of the key issues before the Court, the meaning of "Native American" and how cultural affiliation should be properly determined under NAGPRA.

Dated this 11th day of December, 2000.

/signed by MJF/

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